

# *The* NORTH CAROLINA **REGISTER**

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**ISSUE DATE: AUGUST 15, 1991**

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# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N.C. 27611-7447, Attn: Subscriptions.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volume totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. **1:1 NCR 101-201, April 1, 1981** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1981.

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**North Carolina Administrative Code.** Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, pursuant to Chapter 150B of the General Statutes. Subscription seven hundred and fifty dollars (\$750.00). Individual volumes available.

# **NORTH CAROLINA REGISTER**



*Office of Administrative Hearings  
P. O. Drawer 27447  
Raleigh, NC 27611-7447  
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**NORTH CAROLINA REGISTER**  
*Publication Schedule*  
*(April 1991 - December 1992)*

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
04/01/91	03/11/91	03/18/91	05/01/91	08/01/91
04/15/91	03/22/91	04/01/91	05/15/91	08/01/91
05/01/91	04/10/91	04/17/91	05/31/91	09/01/91
05/15/91	04/24/91	05/01/91	06/14/91	09/01/91
06/03/91	05/10/91	05/17/91	07/03/91	10/01/91
06/14/91	05/23/91	05/31/91	07/14/91	10/01/91
07/01/91	06/10/91	06/17/91	07/31/91	11/01/91
07/15/91	06/21/91	06/28/91	08/14/91	11/01/91
08/01/91	07/11/91	07/18/91	08/31/91	12/01/91
08/15/91	07/25/91	08/01/91	09/14/91	12/01/91
09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
09/16/91	08/23/91	08/30/91	10/16/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
10/15/91	09/24/91	10/01/91	11/14/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92
01/02/92	12/09/91	12/16/91	01/31/92	05/01/92
01/15/92	12/20/91	12/31/91	02/14/92	05/01/92
02/03/92	01/10/92	01/17/92	03/04/92	06/01/92
02/14/92	01/24/92	01/31/92	03/15/92	06/01/92
03/02/92	02/10/92	02/17/92	04/01/92	07/01/92
03/16/92	02/24/92	03/02/92	04/15/92	07/01/92
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04/15/92	03/25/92	04/01/92	05/15/92	08/01/92
05/01/92	04/10/92	04/17/92	05/31/92	09/01/92
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06/15/92	05/25/92	06/01/92	07/15/92	10/01/92
07/01/92	06/10/92	06/17/92	07/31/92	11/01/92
07/15/92	06/24/92	07/01/92	08/14/92	11/01/92
08/03/92	07/13/92	07/20/92	09/02/92	12/01/92
08/14/92	07/24/92	07/31/92	09/13/92	12/01/92
09/01/92	08/11/92	08/18/92	10/01/92	01/01/93
09/15/92	08/25/92	09/01/92	10/15/92	01/01/93
10/01/92	09/10/92	09/17/92	10/31/92	02/01/93
10/15/92	09/24/92	10/01/92	11/14/92	02/01/93
11/02/92	10/12/92	10/19/92	12/02/92	03/01/93
11/16/92	10/23/92	10/30/92	12/16/92	03/01/93
12/01/92	11/06/92	11/13/92	12/31/92	04/01/93
12/15/92	11/24/92	12/01/92	01/14/93	04/01/93

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

## **VOTING RIGHTS ACT FINAL DECISION LETTERS**

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*[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]*

U.S. Department of Justice  
Civil Rights Division

JRD:MAP:NT:lrj  
DJ 166-012-3  
91-1688

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

July 10, 1991

DeWitt F. McCarley, Esq.  
City Attorney  
P. O. Box 7207  
Greenville, North Carolina 27835-7207

Dear Mr. McCarley:

This refers to the annexation [Ordinance No. 2312 (1991)] to the City of Greenville, in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on May 31, 1991.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

John R. Dunne  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

*VOTING RIGHTS ACT FINAL DECISION LETTERS*

---

U.S. Department of Justice  
Civil Rights Division

JRD:MAP:JRN:tlb  
DJ 166-012-3  
91-1762

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

July 19, 1991

Michael Crowell, Esq.  
Tharrington, Smith & Hargrove  
P. O. Box 1151  
Raleigh, North Carolina 27602-1151

Dear Mr. Crowell:

This refers to the change in the method of election from at large to two double-member districts and one at-large position, and a districting plan for the Town of Robersonville in Martin County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on June 6, 1991.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

John R. Dunne  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

## **STATEMENTS OF ORGANIZATION**

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### **NORTH CAROLINA DEPARTMENT OF ADMINISTRATION**

The Department of Administration (DOA) was created by the 1957 General Assembly in an effort to consolidate many of the administrative aspects of State Government. The Executive Organization Act of 1973 recreated the Department and established the Department as one of nineteen major departments of State Government. The head of the Department is the Secretary who is appointed by the Governor and serves at the pleasure of the Governor.

The Department of Administration has two primary duties:

1. Advance the effective management, efficient operation and fair conduct of the executive branch.
2. Host advocacy programs representing various segments of North Carolina's population that have traditionally been underrepresented.

The Department is organized into Divisions and Agencies with brief descriptions as follows:

**OFFICE OF THE SECRETARY**  
116 West Jones Street  
Raleigh, North Carolina 27603-8003  
(919) 733-7232

#### Agency for Public Telecommunications

This agency offers media production services, satellite and audio teleconferencing, and production and distribution of radio and television public service announcements for state agencies. (919) 733-6341

#### Division of Veterans Affairs

This office assists veterans, their dependents, and the dependents of deceased veterans in obtaining and maintaining those rights and benefits to which they are entitled by law. (919) 733-3851

#### DOA Personnel

This office is responsible for recruitment, hiring, grievance and appeal procedures, classification of positions to ensure equitable compensation for all employees, monitoring the departmental affirmative action plan, and implementation of the State Personnel System within the department. (919) 733-4606

#### DOA Public Information Office

The duties of this office include preparation of news releases, the editing of and supervision over production of official publications and the permitting of the use of state buildings and grounds. The Public Information Office counsels divisions on ways to effectively communicate with the public. The divisions assists the public with inquiries and acts as a conduit between the public and other Department of Administration divisions. (919) 733-4391

#### Intergovernmental Relations

This office provides staff support for the state's participation in national and regional organizations such as the National Governors' Association and the Southern Governors' Association. It manages the Appalachian Regional Council program and staffs the Local Government Advocacy Council.

The office also contains the State Clearinghouse which coordinates the state agency and local government intergovernmental review process. Notifications of intent to apply for federal funds and environmental review documents are submitted for comment. (919) 733-0499

#### Office of Fiscal Management

This office accounts for all fiscal activity of the department in conformity with requirements of the Office of State Budget and Management, the Department of State Auditor, and federal funding agencies. (919) 733-2650

#### Office of Marine Affairs

The Office of Marine Affairs advocates and promotes public awareness, appreciation and wise utilization of the natural and cultural resources of coastal North Carolina. To these ends, the office administers the three North Carolina Aquariums, which provide unique marine educational opportunities. The Office of Marine Affairs also houses some staff of the North Carolina Aquarium Society, a non-profit group established in 1986 solely for the purpose of supporting the North Carolina Aquariums. (919) 733-2290

#### Outer Continental Shelf Office (OCS)

The purpose of the OCS Office is to review and coordinate information, policies and comments of all state agencies regarding offshore leasing, exploration, and production for oil and gas and hard minerals in federal waters off the North

## **STATEMENTS OF ORGANIZATION**

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Carolina coast. The office also prepares recommended positions and comments for the Governor in his fulfillment of responsibilities under the federal Outer Continental Shelf Lands Act; serves as staff to the Governor's Working Group; and serves as staff of the North Carolina Marine Science Council. (919) 733-4656

### **GOVERNMENT OPERATIONS**

#### **Division of Purchase and Contract**

This office serves as the central purchasing activity for state government and certain other entities. Contracts are established for the purchase, lease and lease-purchase of the goods and services required by all state agencies, institutions, public school districts, community colleges, and the university system. (919) 733-3581

**State Government Printing Office** A receipt-supported operation, this office provides typesetting and printing services throughout state government. (919) 733-5194

#### **Facility Management Division**

The division manages, directs, coordinates and plans the daily activities of the five sections that constitute the division including centralization of personnel and purchasing and fiscal procedures. It acts as the coordinating point in contact with the Secretary's Office, other DOA sections and agencies, the Governor's Office and other agencies that may use or inquire about the services available from Construction Services, Building Services, Landscape Services, and Housekeeping Services. It engages in planning and possibly expanding the units constituting Facility Management Division and their availability to all agencies in state government and other qualified constituents. The division also oversees the management of the Museum of Art's facilities. (919) 733-3514

#### **General Services Division**

The division manages, directs, coordinates, and plans the daily activities of the three branches that constitute the General Services Division: Courier Service, State Surplus Property, Federal Surplus Property, and the DOA Mail Room and Expendable Supply Store. It engages in planning and possibly expanding the units constituting General Services and their availability to all agencies in state government and other qualified constituents. (919) 733-5361

**Courier Service** A receipt-supported operation, this service provides courier mail and inter-office mail to local state government offices and 89 counties in North Carolina. (919) 733-2913

**Federal Surplus Property** This office acquires and distributes available federal surplus property needed by the eligible recipients in the state and funds costs for operations through receipts from sales. (919) 733-3885

**State Surplus Property** This office is responsible for the sale of all supplies, materials, and equipment owned by the state and considered to be surplus, obsolete, or unused. (919) 733-3889

#### **Motor Fleet Management**

This office is responsible for the approximately 4,000 vehicles owned by state government. Aside from purchasing and maintenance of state vehicles, this office enforces state regulations relating to their use. (919) 733-6540

#### **State Capitol Police**

This law enforcement agency, with police powers throughout the city of Raleigh, provides security and property protection functions for state government facilities within the Capitol City. This agency is also responsible for enforcement of regulations in state-operated parking lots. (919) 733-4646

#### **State Construction Office**

This office is responsible for the administration of the planning, design, and construction of all state facilities, including the university and community college systems. It also provides the architectural and engineering services necessary to carry out the capital improvement program for all state institutions and agencies. (919) 733-7962

#### **State Property Office**

This office is responsible for state government's acquisition and disposition of all interest in real property whether by purchase, sale, exercise of the power of eminent domain, lease, or rental. This office also prepares and keeps current a computerized inventory of all land holdings and buildings owned or leased by the state or any state agency. (919) 733-4346

## **PROGRAMS**

## ***STATEMENTS OF ORGANIZATION***

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### **North Carolina Council for Women**

The primary responsibility of the Council is to advise the Governor, the North Carolina Legislature, and other principal state departments on the special needs of women in North Carolina. In addition, the Council identifies and assesses women's needs, collects and distributes information, coordinates efforts within the state to meet the special needs of women, acts as a resource for the county and regional Councils for Women, and encourages innovative programs for women.

The North Carolina Council on Women offers a variety of programs and services based on the following priorities: equal opportunities in employment and education for women, services to women in crisis, and coordination among groups and individuals working on behalf of women. (919) 733-2455

### **Governor's Advocacy Council for Persons with Disabilities**

The Council pursues appropriate remedies, including legal ones, on behalf of disabled citizens who feel they have been the subject of discrimination. The Council also offers technical assistance regarding disability issues, promotes employment opportunities for disabled persons, and reviews policies and legislation relating to these persons. (919) 733-9250

### **North Carolina Commission of Indian Affairs**

The Commission is responsible for bringing local, state and federal resources into focus for the implementation or continuation of meaningful programs for the Indian citizens of North Carolina. (919) 733-5998

### **North Carolina Human Relations Commission (NCHRC)**

The NCHRC provides services and programs aimed at improving relationships among all citizens of this state, while seeking to ensure equal opportunities in the areas of employment, housing, public accommodation, recreation, education, justice, and governmental services. The Commission also enforces the North Carolina Fair Housing Law. (919) 733-7996

### **Youth Advocacy and Involvement Office (YALO)**

YALO seeks to tap the productivity of the youth of North Carolina through their participation in community services and the development of youth leadership capabilities. The office provides

case advocacy to individuals in need of services for children and youth. (919) 733-9296

### **OTHER AGENCIES**

For administrative, budgetary or personnel purposes only, the following agencies are listed under the Department of Administration: Alcoholism Research Authority, Board of Ethics, Board of Science and Technology, Energy Development Authority, 504 Steering Committee, Low-Level Radioactive Waste Management Authority, Office of the Lieutenant Governor, and the Office of State Personnel.

### **NORTH CAROLINA DEPARTMENT OF AGRICULTURE**

The North Carolina Department of Agriculture is a statutorily created agency, G.S. 106-2, within the executive branch of the state government. The Commissioner of Agriculture, a statewide elected official as provided for in Article III, Section 7(1) of the North Carolina Constitution, is the head of the Department of Agriculture and is a member of the Council of State. The Department of Agriculture is organized into fourteen divisions. A number of boards and commissions are administratively located in the Department.

#### A. Departmental Divisions:

##### 1) Agricultural Statistics

The Agricultural Statistics Division is responsible for collecting, preparing, and disseminating regular series of official crop, livestock and price estimates along with other statistics relative to agriculture in North Carolina and the nation.

Mailing Address:  
Agricultural Statistics Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7293

##### 2) Agronomic Services

The Agronomic Services Division performs laboratory analysis of soil and plant samples for farmers and homeowners. Tests determine the fertility of soil and the nutrient quantity and balance of plants through tissue analysis. Nematodes are quantified from soil and plant root samples and diseases are diagnosed. Fertilizer application and nematode management

## **STATEMENTS OF ORGANIZATION**

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recommendations are made based on test results. Growers are assisted in the field with problem diagnosis and optimum crop production strategies by Regional Agronomists.

Mailing Address:  
Agronomic Services Division  
North Carolina Department of Agriculture  
Blue Ridge Road Center  
Raleigh, NC 27611  
Telephone: (919) 733-2657

### **3) Aquaculture, Natural Resources and Environmental Affairs**

The Aquaculture, Natural Resources and Environmental Affairs Division promotes the development of aquaculture, staffs the Aquaculture Advisory Board, and advises the Commissioner of Agriculture on natural resources and environmental issues affecting agriculture.

Mailing Address:  
Aquaculture, Natural Resources  
and Environmental Affairs  
North Carolina Department of Agriculture  
P.O. Box 27647  
Raleigh, N.C. 27611  
Telephone: (919) 733-7125

### **4) Food Distribution**

The Food Distribution Division operates in cooperation with the USDA to provide food at no cost for distribution to schools of high school grade or under, charitable institutions and needy persons. It is the responsibility of this division to requisition, store, and deliver the food.

Mailing Address:  
Food Distribution Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7661

### **5) Food and Drug Protection**

The Food and Drug Protection Division assures consumers that foods, feeds, drugs, cosmetics, pesticides, and automotive antifreezers are safe, wholesome and properly labeled. Statewide inspections and chemical analyses offer protection against unsafe, deceptive and fraudulent products. Annual registration of pesticides offered for sale within North Carolina and pesticide

applicator licensing and certification is administered by the Pesticide Section.

Mailing Address:  
Food and Drug Protection Division  
North Carolina Department of Agriculture  
4000 Reedy Creek Road  
Raleigh, NC 27607  
Telephone: (919) 733-7366

Mailing Address:  
Pesticide Section  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3556

### **6) Marketing**

The Marketing Division promotes the sale of North Carolina agricultural products, reports farm prices on major commodities and determines and certifies the official grade of farm products. The Marketing Division also organizes special livestock sales, arranges buyer-seller contacts, provides marketing advice and assistance to producers, processors and handlers and administers the North Carolina Egg Law and the Farm Products marketing and branding law. Regional Farmer's Markets in Raleigh, Charlotte and Asheville are also operated by the Marketing Division.

Mailing Address:  
Marketing Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7887

### **7) Museum of Natural Sciences**

The Museum of Natural Sciences Division maintains collections and disseminates knowledge concerning the natural history (flora, fauna, minerals, fossils and ecology) of North Carolina through (1) temporary and permanent exhibits; (2) systematic collections and data files in the charge of taxonomic specialists trained to solve problems of identification and classification; (3) ecological and other field studies of southeastern biota; (4) educational services including teacher education programs, vocational training, curriculum and program development, classes, lectures and preparation of popular and educational materials on natural history topics; and (5) publica-

## **STATEMENTS OF ORGANIZATION**

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tion of natural history books, papers, articles, pamphlets, and similar materials.

Mailing Address:

Museum of Natural Sciences Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7450

8) North Carolina Maritime Museum

The North Carolina Maritime Museum is the State's only museum charged with the collection and preservation of North Carolina's coastal marine and maritime heritage. Its collection emphasizes traditional work boats, decoys, the U.S. Life Saving Service, ship models, and nautical instruments. Its educational programs treat marine and barrier ecology, marine biology, and coastal culture. It supports a live aquaria. The museum is open year-round, 9AM to 5PM and is free to the public.

Mailing Address:

N.C. Maritime Museum  
North Carolina Department of Agriculture  
315 Front Street  
Beaufort, NC 28516  
Telephone: (919) 728-7317

9) North Carolina State Fair

The North Carolina State Fair Division is responsible for the annual North Carolina State Fair in October. During non-Fair time, the North Carolina State Fair rents various Fair facilities to the general public for special events.

Mailing Address:

North Carolina State Fair Division  
North Carolina Department of Agriculture  
1025 Blue Ridge Boulevard  
Raleigh, NC 27607

10) Plant Industry

The Plant Industry Division performs fertilizer and seed examinations to check for accuracy in labeling and product quality. The Division also administers plant pest laws, the Plant Protection and Conservation Act, and the Genetically Engineered Organisms Act.

Mailing Address:

Plant Industry Division

North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3930

11) Research Stations

Fifteen research stations and four state farms comprise the Research Stations Division of the Department of Agriculture. The research stations cooperate with scientists at the land-grant universities to develop new agronomic products and trends, working in conventional crops but also working in crops new to the State. Research is also conducted on the state farms, whose primary purpose is to produce food for state institutions.

Mailing Address:

Research Stations Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3236

12) Standards

The Standards Division administers the weights and measures program which includes the verification of the accuracy of commercial weighing and measuring devices and the inspection of packaged items for compliance with net contents statements. The Division also tests petroleum products and inspects LP Gas installations.

Mailing Address:

Standards Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3313

13) Structural Pest Control

The Structural Pest Control Division is responsible for licensing commercial pest control operators within North Carolina. It is also the responsibility of the Division to inspect the quality of work performed by licensed operators, and to enforce pesticide safety requirements.

Mailing Address:

Structural Pest Control Division  
North Carolina Department of Agriculture  
P. O. Box 27647

## **STATEMENTS OF ORGANIZATION**

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Raleigh, NC 27611  
Telephone: (919) 733-6100

### **14) Veterinary**

The Veterinary Division monitors all animal disease outbreaks and administers animal health programs in North Carolina. The Division also provides veterinary diagnostic services and animal health inspections. Meat processing and slaughter facilities in the State are inspected by the Division to insure cleanliness of the operation and wholesomeness of the finished product. The Division also regulates dog and cat dealers under the Animal Welfare Act.

Mailing Address:  
Veterinary Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7601

### **B. Boards and Commissions**

#### **1) North Carolina Agricultural Hall of Fame Board of Directors**

The North Carolina Agricultural Hall of Fame Board of Directors was created by G.S. 106-568.14. The eight-member Board of Directors is composed of the Commissioner of Agriculture, the Director of the North Carolina Extension Service, the State Supervisor of Vocational Agriculture, the President of the North Carolina Farm Bureau, and the Master of the State Grange, as ex officio members, and three members appointed by the Governor.

The Board of Directors is authorized to adopt rules and regulations which govern the acceptance and admission of candidates to the North Carolina Agricultural Hall of Fame Rules promulgated by the Board are codified in 2 NCAC 31.

Mailing Address:  
Public Affairs Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-4216

#### **2) Board of Agriculture**

The Board of Agriculture was created by G.S. 106-2. The eleven-member Board of Agriculture is composed of the Commissioner of Agriculture, an ex officio member who serves as the Board's Chairman, and ten members appointed by the Governor.

The Board of Agriculture is a policymaking body with respect to the improvement of agriculture and a rulemaking body with respect to all programs administered by the Department of Agriculture, exclusive of Pesticides, Plant Conservation, Gasoline and Oil Inspection and Structural Pest Control promulgated by the Board are codified in 2 NCAC.

Mailing Address:  
Secretary, Board of Agriculture  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7125

#### **3) Aquaculture Advisory Board**

The Aquaculture Advisory Board was created by G.S. 106-760. The seven-member Board is composed of various State officials or their designees who serve ex-officio. The Board promotes aquaculture by reviewing laws, regulations and policies affecting aquaculture and by coordinating aquaculture activities of the various State agencies.

Mailing Address:  
Aquaculture Advisory Board  
North Carolina Department of Agriculture  
P.O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7125

#### **4) Board of Crop Seed Improvement**

The Board of Crop Seed Improvement was created by G.S. 106-269. The Board promotes the development and distribution of pure strains of crop seed to North Carolina farmers. The Board is authorized to adopt rules and regulations which relate to the certification of pure crop seeds. Rules promulgated by the Board are codified in 2 NCAC 29.

Mailing Address:  
Board of Crop Seed Improvement  
North Carolina Department of Agriculture  
P. O. Box 27647

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## **STATEMENTS OF ORGANIZATION**

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Raleigh, NC 27611  
Telephone: (919) 733-3930

**5) Gasoline and Oil Inspection Board**

The Gasoline and Oil Inspection Board was created by G.S. 119-26. The five-member Board is composed of the Commissioner of Agriculture, the Director of the Standards Division and three members appointed by the Governor. The Board is authorized to adopt rules and regulations which govern the quality, labeling, transportation and inspection of liquid motor fuels, kerosene and other heating oils. Rules promulgated by the Board are codified in 2 NCAC 42.

Mailing Address:  
Standards Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3313

**6) Genetic Engineering Review Board**

The Genetic Engineering Review Board was created by G.S. 106-769. The ten-member Board regulates the release and commercial use of genetically engineered organisms. The Board, through the Commissioner of Agriculture, issues permits for such activities, and also has the authority to levy civil penalties for violations of the Genetically Engineered Organisms Act.

Mailing Address:  
Genetic Engineering Review Board  
Plant Industry Division  
North Carolina Department of Agriculture  
P.O. Box 27647  
Raleigh, NC 27611

Telephone: (919) 733-6930

**7) North Carolina Public Livestock Market Advisory Board**

The North Carolina Public Livestock Market Advisory Board was created by G.S. 106-407.1. The eight-member Board serves in an advisory capacity to the Commissioner of Agriculture and the Board of Agriculture on issues which relate to the livestock markets and proposes rule changes related to this area. The Board also is required to attend any hearing for a license to operate a public livestock market.

Mailing Address:  
Veterinary Division  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7601

**8) Advisory Commission for the Museum of Natural Sciences**

The Advisory Commission for the Museum of Natural Sciences was created by G.S. 143-370. The nine-member Commission establishes policies for the Museum and works to promote and develop the Museum and its resources.

Mailing Address:  
Museum of Natural Sciences  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7430

**9) Structural Pest Control Committee**

The Structural Pest Control Committee was created by G.S. 106-65.23. The six-member Committee is authorized to adopt rules to regulate Structural Pest Control activities. The Committee is an occupational licensing board for Structural Pest Control operators in North Carolina. Rules promulgated by the Committee are codified in 2 NCAC 34. The Committee has the authority to assess civil penalties and to deny, revoke, suspend or modify the license, certified applicator's card or identification card of any person adjudged to have violated the Law or regulations.

Mailing Address:  
Secretary,  
Structural Pest Control Committee  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-6100

**10) North Carolina Pesticide Board**

The Pesticide Board was created by G.S. 143-436. The seven-member Board is authorized to adopt rules and regulations which govern the non-structural application, sale, disposal, and registration of pesticides and the licensing and certification of pesticide applicators. The Board

## ***STATEMENTS OF ORGANIZATION***

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is an occupational licensing board with respect to commercial pesticide applicators and private pesticide applicators. Rules promulgated by the Board are codified in 2 NCAC 9L. The Board has the authority to assess civil penalties and to suspend, revoke, deny or modify the licenses of persons adjudged to have violated the Law or regulations.

Mailing Address:  
Secretary,  
North Carolina Pesticide Board  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3556

### **11) Pesticide Advisory Committee**

The Pesticide Advisory Committee was created by G.S. 143-439. The nineteen-member Committee is appointed by the Pesticide Board. The Committee serves in an advisory capacity to the Commissioner of Agriculture and the Pesticide Board on technical questions submitted to it and the development of rules and regulations which relate to pesticides.

Mailing Address:  
Pesticide Advisory Committee  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-3556

### **12) North Carolina Plant Conservation Board**

The North Carolina Plant Conservation Board was created by G.S. 106-202.14. Four members of the seven-member Board are appointed by the Governor and the remaining members are appointed by the Commissioner of Agriculture. The Board is authorized to adopt rules and regulations which classify plant species as either endangered, threatened or of special concern when necessary, and regulate the handling of classified plants. Rules promulgated by the Board are codified in 2 NCAC 10.

Mailing Address:  
Plant Protection Section  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-6930

### **13) North Carolina Plant Conservation Scientific Committee**

The North Carolina Plant Conservation Scientific Committee was created by G.S. 106-202.17. The ten-member Committee serves in an advisory capacity to the North Carolina Plant Conservation Board on matters relating to plant species classified as either endangered, threatened or of special concern.

Mailing Address:  
Plant Protection Section  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-6930

### **14) North Carolina Agricultural Finance Authority**

The North Carolina Agricultural Finance Authority was created by G.S. 122D-4. The ten-member Finance Authority is empowered to provide capital and credit at interest rates within the financial means of persons and businesses engaged in agriculture and agricultural exports.

Mailing Address:  
Secretary, North Carolina  
Agricultural Finance Authority  
North Carolina Department of  
Agriculture  
Suite 406  
19 West Hargett Street  
Raleigh, NC 27601

### **15) North Carolina Grape Growers Council**

The North Carolina Grape Growers Council was created by G.S. 106-750. The eleven-member Council is appointed by the Commissioner of Agriculture. The Council promotes the growth and development of North Carolina's grape and wine industry.

Mailing Address:  
Secretary, North Carolina  
Grape Growers Council  
Markets Division  
North Carolina Department of  
Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7136

## **STATEMENTS OF ORGANIZATION**

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**16) Rural Rehabilitation Corporation Board of Directors**

The Rural Rehabilitation Corporation Board of Directors was created by G.S. 137-31.3. The nine-member Board acts as the governing body of the North Carolina Rural Rehabilitation Corporation which serves as a social and financial instrumentality in assisting to rehabilitate farm families by enabling them to secure subsistence and gainful employment from the soil.

Mailing Address:  
Secretary, Rural Rehabilitation  
Corporation  
Fiscal Management Division  
North Carolina Department of  
Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-2113

**17) Northeastern North Carolina Farmer's Market Commission**

The Northeastern North Carolina Farmers Market Commission was created by G.S. 106-720. The nine-member Commission is empowered to establish a farmer's market in northeastern North Carolina that will facilitate the sale and marketing of agricultural commodities produced in the area. The Commission also serves in an advisory capacity to the Commissioner of Agriculture on the operation of the market.

Mailing Address:  
Chairman, Northeastern North  
Carolina Farmer's Market Commission  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7125

**18) Northeastern Farmer's Market Advisory Board**

The Northeastern Farmer's Market Advisory Board was created by G.S. 106-721. The Board consists of one member from each of the counties served by the Northeastern North Carolina Farmer's Market, appointed by the Commissioner of Agriculture. The Board serves in an advisory capacity to the Northeastern North Carolina Farmer's Market Commission.

Mailing Address:  
Secretary, Northeastern Farmer's  
Market Advisory Board  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7125

**19) Southeastern North Carolina Farmer's Market Commission**

The Southeastern North Carolina Farmer's Market Commission was created by G.S. 106-727. The nine-member Commission is empowered to establish a farmer's market in southeastern North Carolina that will facilitate the sale and marketing of agricultural commodities produced in the area. The Commission also serves in an advisory capacity to the Commissioner of Agriculture on the operation of the market.

Mailing Address:  
Chairman, Southeastern North Carolina  
Farmer's Market Commission  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7125

**20) Southeastern Farmer's Market Advisory Board**

The Southeastern Farmer's Market Advisory Board was created by G.S. 106-728. The Board consists of one member from each of the counties served by the Southeastern North Carolina Farmer's Market, appointed by the Commissioner of Agriculture. The Board serves in an advisory capacity to the Southeastern North Carolina Farmer's Market Commission.

Mailing Address:  
Secretary, Southeastern Farmer's  
Market Advisory Board  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7125

**21) Grading Service Advisory Committee**

The Grading Service Advisory Committee was established by the Commissioner of Agriculture pursuant to G. S. 143B-10(d). The seven-member committee is appointed by the Com-

## **STATEMENTS OF ORGANIZATION**

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missioner of Agriculture and includes persons knowledgeable in the area of grading of fruits, vegetables and peanuts. The purpose of the Committee is to advise the Department of Agriculture on establishment of fees for grading services.

Mailing Address:  
Division of Marketing  
North Carolina Department of Agriculture  
P. O. Box 27647  
Raleigh, NC 27611  
Telephone: (919) 733-7576

### **22) Tobacco Research Commission**

The Tobacco Research Commission was created by G. S. 106-568.3. The five-member Commission includes the Commissioner of Agriculture and representatives of farm organizations. The Commission directs the expenditure of funds derived from a special assessment on tobacco for research and dissemination of research information concerning tobacco.

**NORTH CAROLINA OFFICE OF THE STATE AUDITOR**  
300 North Salisbury Street  
Raleigh, North Carolina 27603-5903  
Telephone: (919) 733-3217  
FAX: (919) 733-8443

The State Auditor is a constitutionally elected official of the State of North Carolina. He is the administrative head of the State Auditor's Office and is a member of the Council of State.

The State Auditor is the independent auditor for state government and all audits are conducted under the authority of Article 5A of General Statute 147 and the Federal Single Audit Act of 1984. An important part of the audit function is the annual audit of the general purpose statements included in the State of North Carolina's Comprehensive Annual Financial Report. This is an annual report that is widely circulated throughout the nation and is heavily relied upon by bondholders and federal authorities. Another equally important audit function is the Single Audit. The State Auditor's Office is responsible for the auditing of all federal monies that flow both through and to the state, ensuring compliance with the federal and state guidelines. This report is also performed on an annual basis.

In addition, the State Auditor's Office conducts performance audits on state programs and activities and reports on the economy, efficiency and

effectiveness of operations along with whether they achieve intended results.

The State Auditor's Office also has a telephone "Hotline" for receiving reports of alleged instances of fraud, waste, and abuse in state government. That number is (919) 733-3276. The "Hotline" division is dedicated to the investigation of these alleged violations to determine if, in fact, fraud, waste, or abuse has occurred or is occurring in state government.

The State Auditor's Office employs 151 people and is managed by the State Auditor and the Chief Deputy State Auditor. The audit staff is comprised of approximately 135 professionals and is supervised by two Deputy State Auditors and six audit managers.

The State Auditor also administers the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. The fund has a current membership of 25,067 active and 5,614 retired members. The Pension Fund telephone number is (919) 733-3275.

### **NORTH CAROLINA DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

The Department of Economic and Community Development was established as part of the State Government Reorganization Act of 1971. At that time, the Department consisted almost entirely of regulatory agencies and Employment Security Commission.

In 1977, the economic development divisions, state ports, and energy programs were merged into the Department of Economic and Community Development. Thus, for the first time, all major state government programs designed to develop and promote economic development in North Carolina were consolidated within one department.

The regulatory agencies use their authority independently of the Economic and Community Development department, including holding hearings and engaging in rule making. The department provides administrative services for those regulatory agencies.

Among the Department's most important non-regulatory agencies are its five Economic Development Divisions. Supervised by the Secretary and the North Carolina Board of Economic Development. The divisions are:

## **STATEMENTS OF ORGANIZATION**

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**Business/Industry Development Division.** This division is North Carolina's lead industrial recruitment and business assistance agency. Its staff works closely with other public and private development organizations to encourage the growth and expansion of North Carolina's existing companies, as well as to attract new industries to the state. The Division operates a statewide office in Raleigh and nine regional field offices.

**International Division.** As its name implies, the department's International Division is primarily responsible for North Carolina's foreign trade. With representatives in Tokyo, Japan, Dusseldorf, West Germany, Hong Kong and Toronto Canada, the division helps foreign firms interested in establishing new business operations in North Carolina, and assists Tar Heel firms in marketing products and services overseas.

**Travel and Tourism.** The division promotes North Carolina as a vacation destination. The purpose of the division is to increase travel expenditures in North Carolina, create additional employment and personal income for those employed by the Travel Industry, and to strengthen the overall economy of the state. This is achieved by conducting the state travel advertising campaign, servicing travel inquires, and producing a public relations program on behalf of the state. Sports Development is a new aspect of this division.

**Film Office.** Established in 1980 to encourage and assist motion picture and television production activity throughout the state, the office operates as a specialized unit of economic development under the direction of the Secretary. Primary targets of the office's recruitment program are major Hollywood studio productions, television commercials, and independent theatrical and television films.

Other non-regulatory agencies housed within the Department of Economic and Community Development and important to North Carolina's overall economic development are:

**State Ports Authority.** North Carolina operates state ports at Wilmington and Morehead City and leases operation of a small harbor at Southport as well as the Charlotte Intermodal Terminal in Charlotte. Ships from most of the world bring or pick up goods at the Morehead City and Wilmington Ports. Under the direction of **The State Ports Authority Board**, the State Ports Authority promotes the use of North Carolina's ports, oversees construction of facil-

ties at the ports, and operates ports services, such as cranes to unload the goods off the ship.

**Energy Division.** Duties and responsibilities are to serve as the principal agency in state government to promote energy efficiency, prepare and implement emergency energy plans, prepare energy forecasts, provide energy information, support the Energy Policy Council, and provide energy policy support to the Governor.

**Employment Security Commission.** Administers the North Carolina Employment Service, North Carolina's unemployment insurance program, and prepares labor market information.

The Commission's Employment Service provides job placement services to all members of the public, including interviewing, counseling, testing, job development, and referral. Specialized services are available to the handicapped, the aged, youth, veterans, and to migrant and seasonal farm workers. The Employment Service is also involved in the administration of such federal programs as Work Incentive (WIN), Veterans Employment Service (VES).

The unemployment insurance program provides benefits to workers unemployed through no fault of their own. The ESC determines entitlement to benefits and makes payments to eligible claimants. The agency also administers federal unemployment insurance programs such as Federal Supplemental Benefits (FSB); Special Unemployment Assistance (SUA); Unemployment Compensation for Federal Employees (UCFE), and others.

The Labor Market Information division of ESC statistical department compiles figures on unemployment and employment in wages, projected occupational needs, and other data. This information is used by federal and state officials, planners, and prospective employers for a variety of purposes.

**Technological Development Authority.** Provides direct seed capital financing for North Carolina small businesses developing new or improved products and processes. The authority also provides direct grants to nonprofit community-based organizations establishing small business 'incubator' facilities designed to house and support new small businesses in their earliest stages of development.

### **REGULATORY AGENCIES**

## **STATEMENTS OF ORGANIZATION**

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Regulatory agencies housed in the Department of Economic and Community Development include:

**Alcoholic Beverage Control Commission.** Responsible for controlling all aspects of the sale and distribution of alcoholic beverages in North Carolina. The State's system is unique among the 50 states because of more than 152 separate county and municipal ABC Boards which are responsible for the sale of alcoholic beverages in the counties of cities or the State. In each case a vote of the people was required to establish the system.

**Banking Commission.** Regulates and supervises the activities of the 49 banks and their 874 branches chartered under the laws of North Carolina. The Commission is responsible for the safe conduct of business; the maintenance of public confidence; and the protection of the banks' depositors, debtors, creditors, and shareholders. The staff of the Office of Commissioner of Banks conducts examinations of all state-chartered banks and consumer finance licensees; processes applications for new banks, applications for branches of existing banks, and all applications for licenses. In addition, the Office of Commissioner of Banks supervises the state's bank holding companies, Sale of Checks Act licensees, and pre-need burial trust fund licensees.

**Burial Commission.** Supervises and audits 280 North Carolina mutual burial associations, which have approximately one-half million members. A mutual burial association is a nonprofit corporation that pays a limited amount toward burial expenses.

**Cemetery Commission.** Regulates and supervises the activities of cemeteries, cemetery management organizations, cemetery sales organizations, cemetery brokers, and individual pre-need cemetery sales people licensed under the laws of North Carolina. Its principal function is to conduct examinations of all licensed cemeteries. It also authorizes the establishment of and licenses cemeteries, cemetery sales organizations, cemetery management organizations, cemetery brokers, and pre-need salespeople.

**Credit Union Commission.** Supervises and regulates the operations of 192 state chartered credit unions, which serve over 450,000 members. Its staff conducts annual examinations of all credit unions to insure proper bookkeeping and compliance with the law.

**Industrial Commission.** Administers the Workers' Compensation Act (NC G.S. 97-1, *et seq.*); the State Tort Claims Act (NC G.S. 143-291, *et seq.*); and the Law Enforcement Officers', Firemen's and Rescue Squad Workers' Death Benefit Act (NC G.S. 143-166.1, *et seq.*). Additionally, the Commission has been charged with the responsibility for administering the Childhood Vaccine-Related Injury Compensation Program (NC G.S. 130-422, *et seq.*), effective October 1, 1986. The Commission administratively handles approximately 200,000 claims per year and conducts trials in nearly 5,000 contested claims annually.

**Rural Electrification Authority.** Supervises 28 electric membership corporations and 9 telephone membership corporations in the state to see that they apply their rules and regulations on a non-discriminatory basis to individual North Carolinians. It also acts as an ombudsman for member complaints and as the liaison between the membership corporations and the United States Rural Electrification Administration for federal loans. All loan applications must first have the approval of the North Carolina Rural Electrification Authority Board before they can be considered by the federal Rural Electrification Administration.

**Savings Institutions Commission.** Regulates and supervises savings and loan associations chartered under the laws of North Carolina. Its principal functions are to supervise and to examine all state-chartered savings and loan associations and to process applications for new charters, branches, mergers, and acquisitions.

**Utilities Commission.** Regulates rates of various utilities. It also investigates customer complaints regarding utility operations and services. The seven member Commission has jurisdiction over public electric, telephone, natural gas, water and sewer companies, passenger carriers, freight carriers, and railroads.

**Utilities Commission Public Staff.** Created by the legislature in 1977, the Public Staff represents customers in rate cases and other utilities matters. This independent staff appears before the Commission as an advocate of the using and consuming public.

Together, the Economic and Community Development Department's regulatory and non-regulatory agencies now employ approximately 2,600 workers; roughly 2,000 of these are housed in the Employment Security Commission. The Department's annual budget, not including Em-

## **STATEMENTS OF ORGANIZATION**

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ployment Security, totals around \$70,000,000, roughly \$9,250,000 of which is federal funds. The Employment Security Commission, which is funded entirely by the federal government, operates on an annual budget of approximately \$67,000,000.

In summary, the North Carolina Department of Economic and Community Development serves the public in a variety of ways.

By recruiting new industry, encouraging the development of small businesses and other existing firms, and promoting tourism and international trade, the Department encourages the creation of new jobs and other forms of economic opportunity which contribute to North Carolina's overall quality of life.

Through the Employment Security Commission, the Department administers North Carolina's unemployment insurance program and provides free job placement services for North Carolina citizens.

Finally, Economic and Community Development's regulatory agencies work to assure fair and equitable treatment for consumers and producers throughout the state's economy.

### **BOARDS WITHIN THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

#### **ALCOHOLIC BEVERAGE CONTROL COMMISSION (G.S. 18B-200, 18B-203)**

The Alcoholic Beverage Control Commission is an agency of the North Carolina Department of Economic and Community Development. The Commission consists of a chairman, and two associate members who meet monthly to review cases and other matters under its jurisdiction.

The Commission performs the following duties:

1. Administers the ABC laws;
2. Provides for enforcement of the ABC laws, in conjunction with the ALE Division;
3. Sets the prices of alcoholic beverages sold in local ABC stores;
4. Requires reports and audits from local boards;
5. Determines what brands of alcoholic beverages may be sold in this State;
6. Contracts for State ABC warehousing and the distribution of liquors;
7. Disposes of damaged alcoholic beverages;

8. Removes for cause any member or employee of a local board;
9. Supervises or disapproves purchasing by any local board and inspects all records of purchases by local boards;
10. Approves or disapproves rules adopted by any local board;
11. Approves or disapproves the opening and location of ABC stores;
12. Issues ABC permits, and imposes sanctions against permittees;
13. Provides for the testing of alcoholic beverages;
14. Fixes the amount of bailment charges and bailment surcharges to be assessed on liquor shipped from the Commission warehouse and collects those charges from local boards;
15. Provides for the distribution of spirituous liquor to armed forces installations within this State for resale on the installations.

The Commission is located at 3322 Garner Road in Raleigh.

The mailing address is:

PO Box 26687  
Raleigh, NC 27611-6687  
Telephone (919) 779-0700

#### **COMMISSIONER OF BANKS (G.S. 53-92)**

**Purpose:** To charter, license, and supervise state-chartered banks, industrial banks, trust companies, consumer finance licensees, pre-need burial licensees, and sale of checks act licensees.

To take charge of or to close insolvent banks, industrial banks, and trust companies.

To sue or defend in actions necessary or proper to the discharge of his office.

To exercise powers under supervision of Banking Commission.

To keep records of all official acts, rulings, and transactions.

**Composition:** Appointed by Governor. General Assembly confirmation required.

**Term:** 4 years.

#### **STATE BANKING COMMISSION (G.S. 53-92)**

**Purpose:** On request, provide for hearings before the Commission in connection with banking laws.

Supervise, direct and review the actions of the Commissioner of Banks.

## **STATEMENTS OF ORGANIZATION**

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**Composition:** 12 appointed by Governor (five are practical bankers and seven represent the borrowing public), 1 appointed by General Assembly upon recommendation of President of the Senate (practical banker), 1 appointed by General Assembly upon recommendation of Speaker of the House of Representatives (representing the borrowing public) and 1 ex officio (State Treasurer).

**Term:** 4 years.

**Officers:** Chairman is State Treasurer.

**NC MUTUAL BURIAL ASSOCIATION  
COMMISSION  
(BURIAL COMMISSION)  
(G.S. 58-241.8)**

**Purpose:** Supervise all burial associations authorized to operate in NC, to determine that such associations are operated in conformity.

To assist the Burial Association Administrator with prosecution of violations.

Counsel and advise the Administrator in performance of his duties and to protect the interest of members of Mutual Burial Associations.

**Composition:** 5 members - 1 appointed by Governor and 4 elected by Burial Associations (authorized by the Statutes.)

**Term:** 5 years.

**Officers:** Chairman is elected by Commission. Secretary - Burial Association Administrator.

**CAPE FEAR RIVER NAVIGATION AND  
PILOTAGE COMMISSION  
(G.S. 76-1)**

**Purpose:** Make and establish rules and regulations for the qualifications, arrangements, and stations of pilots.

To prescribe, reduce and limit the number of pilots necessary to maintain an effective pilotage service for the Cape Fear River and Bar.

To organize all pilots licensed by it into a mutual association.

Examination and licensing of pilots for the Cape Fear River and Bar.

Appoint and regulate pilots' apprentices.

Grant permission to any pilot in good standing and authorized to pilot vessels, to run regularly as pilots on steamers running between the port of Wilmington and other ports of the U.S.

Cancel licenses.

To hear and determine any matter of dispute between pilots and masters of vessels or between pilots themselves.

Retire pilots from active service.

**Composition:** 5 members appointed by Governor. (At least 4 residents of New Hanover county and none shall be licensed pilots.)

**Term:** 4 years.

**Officers:** Chairman designated by the Governor to serve at his pleasure.

**CEMETERY COMMISSION  
(G.S. 65-50)**

**Purpose:** To regulate and supervise the activities of cemetery companies, cemetery sales and/or management organizations, cemetery brokers and individual selling pre-need cemetery property that comes within the jurisdiction of the NC Cemetery Act.

**Composition:** 7 members - appointed by Governor. (2 owners or managers of cemeteries in NC, 2 public members who have no financial interest in and are not involved in management of any cemetery or funeral related business, 3 members selected from 6 nominees submitted by the NC Cemetery Association.)

**Term:** 4 years.

**Officers:** Chairman and Vice Chairman elected by Commission.

**CREDIT UNION COMMISSION  
(G.S. 143B-439)**

**Purpose:** Review, approve or modify any action taken by the administrator of Credit Unions.

To hear an appeal from a ruling order or decision of the Administrator which any credit union feels aggrieved.

To fix a date, time, and place for hearing of the appeal and serve notice upon the Administrator.

**Composition:** 7 members appointed by Governor. (3 with at least 3 years of experience as Credit Union Directors or in management of State-chartered Credit Unions. No 2 persons shall be residents of the same senatorial district, no person shall be on a Board of Directors or employed by another type of financial institution, and no person shall serve on the Commission for more than two complete consecutive terms.)

## **STATEMENTS OF ORGANIZATION**

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**Terms:** 4 years.

**Officers:** Chairman elected by and from membership.

### **ECONOMIC DEVELOPMENT BOARD (G.S. 143B-434)**

**Purpose:** Formulate a program for the economic development of the State of NC and assist the Secretary of Economic and Community Development in carrying out his duties and powers in matters relating to existing industry, the recruitment of industry and the expansion of the travel and tourism industries.

Members serve on four committees: Travel and Tourism (3490), International Committee, Business Assistance Committee, Industrial Committee.

**Composition:** 25 members appointed by Governor, Lt. Governor and the Speaker of the House.

**Term:** 4 years.

**Officers:** Chairman and Vice Chairman designated by the Governor. Secretary of Economic and Community Development serves as Secretary.

### **EMPLOYMENT SECURITY COMMISSION (G.S. 96-3)**

**Purpose:** To reduce and prevent unemployment.

To encourage and assist in the adoption of practical methods of vocational training, retraining and guidance.

To investigate, recommend, advise and assist in the establishment and operation of reserves for public works to be used in times of business depression and unemployment.

To promote the reemployment of unemployed workers.

To distribute the Commission's regulations, general rules and its biennial reports to the Governor.

**Composition:** 7 members appointed by Governor, one of whom is designated by the Governor as Chairman.

**Term:** 4 years for Commissioners; Chairman serves at the pleasure of the Governor.

**Officers:** Chairman is appointed by the Governor.

### **EMPLOYMENT SECURITY COMMISSION ADVISORY COUNCIL (G.S. 96-4(e))**

**Purpose:** Aid the Employment Security Council in forming policies and discussing problems related to the administration of Employment Security, and in assuring impartiality and freedom from political influence in the solution of such problems.

**Composition:** No specified number of members appointed by Governor. (An equal number of employees and employers who represent the State because of their vocation, employment or affiliation. Public members may be designated.)

**Term:** Pleasure of Governor.

### **ENERGY POLICY COUNCIL (G.S. 113B-3)**

**Purpose:** To develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy.

To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy.

To continually review and coordinate all State government research, education, and management programs and educate and inform the general public.

To recommend to the Governor and to the General Assembly needed energy legislation and the changes for implementation.

**Composition:** 18 members - 9 appointed by Governor; 2 by the President of Senate, 2 by the Speaker of the House, and 5 Ex officio. (2 Representatives, 2 Senators, 1 experienced in the electric power industry, 1 experienced in the natural gas industry, 1 petroleum marketing industry, 1 economic analysis of energy requirements, 1 environmental protection, 1 industrial energy consumption, 1 alternative sources of energy, 1 city government, and 1 county government. Ex officio - Chairman of NC Utilities, Commissioner of Agriculture, Secretary of Natural Resources and Community Development, Secretaries of Economic and Community Development and Administration or their designees).

**Term:** 4 years.

**Officers:** Chairman appointed by Governor. Vice Chairman elected from and by membership.

## **STATEMENTS OF ORGANIZATION**

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### **N. C. HAZARDOUS WASTE MANAGEMENT COMMISSION (G.S. 130B)**

The Hazardous Waste Management Commission was created under Chapter 130B of the General Statutes to provide for the siting, construction and operation of hazardous waste facilities in North Carolina. The Commission is created to encourage the development of hazardous waste facilities which are needed in this State through the efforts of private enterprise. To the extent that private enterprise fails to provide such facilities, the Commission is authorized to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey needed hazardous waste facilities as authorized by the Governor.

The Commission shall assist the Governor with the negotiation of interstate agreements for the management of hazardous waste. The Commission shall make recommendations to the Governor as to the technology, design capacity, operational features, and post-closure requirements of authorized hazardous waste facilities.

The Commission shall adopt, consistent with the rules of the Commission for Health Services and pursuant to Chapter 150B of the General Statutes, rules specifying the criteria and procedures for evaluating alternative locations for, and siting of, hazardous waste facilities. Site selection procedures and criteria are based on those set forth in Chapter 130B-11 of the General Statutes. The Commission shall actively seek communities interested in hosting hazardous waste facilities, and shall give first priority to the evaluation of potential sites located in communities interested in hosting a hazardous waste facility. With respect to any potential site located in a county interested in volunteering to host a facility, the site selection criteria set out in Chapter 130B-11(c)(1) and (2), or any other criteria which are discretionary with the Commission, may be waived, if such waiver would not have a significant impact on the economic viability of the facility, and if such waiver would not adversely affect public health or safety or the environment.

The Commission is composed of nine members. Members of the General Assembly, the Board, the Commission for Health Services, and members or employees of any State or federal agency, board, or commission which exercises regulatory authority with respect to any activity of the Commission shall be ineligible for appointment

to membership on the Commission. The Governor shall appoint five members to the Commission, including the offices of Chairman and Vice-Chairman. All appointments made by the Governor shall be for a term of four years. The General Assembly shall appoint four members, two upon recommendation of the Speaker of the House of Representatives and two upon recommendation of the President Pro Tempore of the Senate. All appointments made by the General Assembly shall be for a term of two years. The Commission shall meet at least quarterly at such time and place within the State as the Commission may provide.

### **INDUSTRIAL COMMISSION (G.S. 97-1 et seq.) (G.S. 143-291 et seq.) (G.S. 143-166.1 et seq.)**

**Purpose:** The Industrial Commission administers the Workers' Compensation Act; the State Tort Claims Act; the Law Enforcement Officers', Firemen's and Rescue Squad Workers' Death Benefit Act; and the Childhood Vaccine-Related Injury compensation Program.

The Commission administratively processes non-contraverted matters under the various Acts and serves as a court in the hearing of contested matters arising under the same statutes.

**Composition:** 3 members appointed by Governor. The Commission employs Deputy Commissioners, who are subject to the State Personnel Act. The Deputy Commissioners hold hearings and render decisions in contested cases.

**Term:** Commissioners serve 6 year terms, with one of the three terms expiring every two years.

**Officers:** Chairman is appointed by and serves at the pleasure of the Governor.

### **MOREHEAD CITY NAVIGATION AND PILOTAGE COMMISSION (G.S. 76-1)**

**Purpose:** Make and establish rules and regulations for the qualification, arrangements, and stations of pilots.

To govern the number of pilots necessary to maintain an effective pilotage service for the Morehead City Harbor and Beaufort Bar.

Examination and licensing of pilots for the Morehead Harbor and Beaufort Bar.

Appoint and regulate pilots' apprentices.

Set charges for pilotage rates.

Cancel and suspend licenses.

## **STATEMENTS OF ORGANIZATION**

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To have jurisdiction over any matter of dispute between pilots or matters related to navigation in regulated areas.

Retire pilots from active service.

**Composition:** 3 residents of Carteret County appointed by Governor (none shall be licensed pilots or immediate family) and representative maritime interests serving as ex officio, non-voting member.

**Term:** 3 years.

**Officers:** Chairman designated from voting membership by Governor.

### **N.C. NATIONAL PARK, PARKWAY AND FOREST DEVELOPMENT COUNCIL (G.S. 143B-447)**

**Purpose:** To promote the development of that part of the Smoky Mountains National Park lying in NC; the completion and development of the Blue Ridge Parkway and the development of Nantahala and Pisgah national forests.

To study the development of these areas and to recommend a policy that will promote the entire mountain section of NC with emphasis upon scenic and recreational resources and the encouragement of the location of federal government and governments of adjoining states about federal areas and projects in this section.

Advise and confer with interested individuals and organizations.

Study the need for additional entrances to the Great Smoky Mountains National Park and file them with the National Park Service of the federal government and the NC Departments of Transportation and Economic and Community Development.

**Composition:** 7 members appointed by Governor. (1 resident from each of the following counties: Buncombe, Haywood, Jackson and Swain. 3 residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountain National Park or the Pisgah or Nantahala National Forests).

**Term:** 4 years.

**Officers:** Chairman elected by Commission.

### **PORTS AUTHORITY (G.S. 143B-452)**

**Purpose:** Promote, develop, construct, equip, maintain, and operate the harbors and seaports

within the State or within the jurisdiction of the state.

To aid the shipment of freight and commerce through the ports.

To increase the movement of waterborne commerce, foreign and domestic, to and through and from the harbors and ports.

**Composition:** 11 members - 7 appointed by Governor; 2 by the Lt. Governor; and 2 by the Speaker of the House. (No member shall live in a House or Senate District containing a port. Speaker and Lt. Governor's appointees each serve 2 years.)

**Term:** 6 years.

**Officers:** Chairman and Vice Chairman appointed by Governor.

### **PORTS RAILWAY COMMISSION (G.S. 143B-469)**

**Purpose:** To operate and control all railway equipment and railway operations transferred to it by the State Ports Authority.

To make agreements as to scale of wages, seniority and working conditions with railroad employees.

To apply for and accept loans.

**Composition:** 5 members appointed by the Governor.

**Term:** 4 years.

**Officers:** Chairman designated by the Governor to serve at his pleasure, Vice Chairman elected by and from membership, general manager selected by the commission with the approval of the Governor.

### **RURAL ELECTRIFICATION AUTHORITY (G.S. 117-1)**

**Purpose:** To secure electrical and telephone service for the rural districts of the State where service is not now being rendered.

To review, approve, disapprove or cause to have modified all loan applications from the 28 rural electric and the nine rural telephone cooperatives prior to their submission to the federal Rural Electrification Administration. To respond to all complaints of consumers receiving service from these electric and telephone systems.

**Composition:** 5 members appointed by Governor.

## **STATEMENTS OF ORGANIZATION**

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**Term:** 4 years.

**Officers:** Chairman and Secretary are elected by the Board.

### **SAVINGS INSTITUTIONS COMMISSION (G.S. 54-24-1)**

**Purpose:** To review, approve, disapprove or modify any action taken by the Administrator of the Savings Institutions Commission.

Advise and assist the Administrator.

Review recommendations of the Administrator regarding each application for permission to establish a new savings and loan association in the State and by majority vote approve or disapprove the recommendations of the Administrator.

**Composition:** 7 members appointed by Governor. (2 members currently serving as managing officers of state associations. At least 4 members representatives of the borrowing public and not employees or directors of any financial institution).

**Term:** 4 years.

**Officers:** Chairman and Vice Chairman are elected by the Commission.

### **SEAFOOD INDUSTRIAL PARK AUTHORITY (G.S. 113-315.25)**

**Purpose:** To develop and improve Wanchese Seafood Industrial Park and other such places, including inland ports and facilities for a more expeditious and efficient handling of seafood commerce.

To acquire, construct, equip, maintain, develop, and improve the port facilities.

Stimulate the shipment of seafood commerce through these ports, including the investigation and handling matters of transportation rates and rate structures.

To generally aid in the development and improvement of seafood industrial parks of the State of NC and to increase the movement of waterborne seafood commerce, foreign and domestic, to, through and from seafood industrial parks.

**Composition:** 11 members - 9 appointed by Governor; 1 by President of the Senate; and 1 by the Speaker of the House (1 Senator, 1 Representative, 1 resident of village or town where park is located, 2 members from area where park is located, 5 at-large who represent other sections

of State, no less than 5 members from coastal counties).

**Term:** 4 years.

**Officers:** Chairman and Vice chairman are appointed by Governor.

### **TECHNOLOGICAL DEVELOPMENT AUTHORITY (G.S. 143B-471)**

**Purpose:** to increase the rate at which new jobs are created in all regions of the state by stimulating the development of existing and new small businesses.

Apply for and accept grants of money from the United States, the State of North Carolina, or any political subdivision thereof, or from any person, corporation, foundation or trust.

Establish 'incubator' facilities to house and support small business concerns which are beginning, and to make one-time matching grants (not to exceed \$200,000) to nonprofit corporations affiliated with local colleges, universities and technical institutes to aid in the creation of such facilities.

To provide equity financing for the research activities of new and existing small businesses leading to the development of new or improved products or services.

To make agreements with recipient businesses to ensure proper use of Authority awards and receipt of royalties, where appropriate.

**Composition:** 12 members, 8 appointed by the Governor, 2 by the Lt. Governor, and 2 by the Speaker of the House. Consideration given to qualifications in technical fields as well as experience in entrepreneurial business and capital formation.

**Term:** 4 years, except 2 years for Speaker's appointments. No members may serve more than two complete, consecutive four year terms.

**Officers:** Chairman designated by Governor to serve at his pleasure, Vice chairman elected from and by membership.

### **UTILITIES COMMISSION (G.S. 62-10)**

**Purpose:** Exercise the power and authority to supervise and control the public utilities of the State.

Supervise the rates charged and service rendered by all public utilities in the state.

## STATEMENTS OF ORGANIZATION

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Employ qualified personnel to serve as members of its staff.

**Composition:** 7 members appointed by governor with General Assembly confirmation.

**Term:** 8 years.

**Officers:** Chairman appointed by Governor every four years.

### UTILITIES COMMISSION (PUBLIC STAFF) (G.S. 62-15)

**Purpose:** Review, investigate, intervene, and make recommendations to the Commission relating to matters affecting the using and consuming public.

**Composition:** 78 employees, Executive Director appointed by Governor with General Assembly confirmation. Executive Director hires employees, including professional, administrative, technical, and clerical personnel.

**Officers:** Executive Director serving 6 year term.

The following information is the process a citizen of North Carolina could seek information from the various divisions and agencies in the Department of Economic and Community Development:

Utilities Commission, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Bob Wells\*, 733-4249; Utilities Commission-Public Staff, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Robert Gruber, 733-2435; Industrial Commission, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Phil Wilson, 733-4820; Banking Commission, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Doris Perry, 733-3016; Savings Institutions Commission; 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Ron Raxter, 733-3525; Credit Union Commission, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Roy High\*\*, 733-7501; Rural Electrification Authority, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Arch Hathcock, 733-7513; Mutual Burial Assoc. Commission, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Virginia Harris, 733-3403; Cemetery Commission, 430 N. Salisbury St., Raleigh, NC 27611, Contact Person, Bill Gladden, 733-4915; Alcoholic Beverage Control Commission, 3322 Old Garner Rd., Raleigh, NC 27610, Contact Person, Ann Fulton, 779-0700; Energy Division, 430

N. Salisbury St., Raleigh, NC 27611, Contact Person, Chris Mogensen, 733-2230; Employment Security Commission, 700 Wade Ave., Raleigh, NC 27605, Contact Person, Tom Whitaker, 733-7546.

\*Through June 30, 1987

\*\*Through August 31, 1987

### NORTH CAROLINA DEPARTMENT OF CORRECTION

The North Carolina Department of Correction is authorized under Article III, Section 11 of the Constitution of North Carolina as a principal department of State government. Pursuant to the Executive Organization Act of 1973, the Department is organized to include the Board of Correction, the Division of Adult Probation and Parole, the Division of Prisons, and the Parole Commission. In 1974, the General Assembly created the Inmate Grievance Commission as an autonomous agency within the Department.

The primary responsibility of the Department is to provide for the control and rehabilitation of criminal offenders committed to its custody.

The administrative head of the Department is the Secretary of Correction, who is appointed by and serves at the pleasure of the Governor.

The Board of Correction shall assist the Secretary in the development of priorities and major programs within the Department. Board members are appointed by and serve at the pleasure of the Governor.

The Division of Adult Probation and Parole is responsible for the supervision of probationers and parolees within the state. Additionally, it operates seven pre-release and aftercare centers which are designed to facilitate social adjustment of the former offender. The public may obtain information from the Division at 1307 Glenwood Avenue, Suite 260, Raleigh, North Carolina and by telephone at (919) 733-2957.

The Division of Prisons is responsible for the management and operation of 92 prison facilities for the state prison system. It is divided into five commands: Eastern Geographic, Western Geographic, Youth Services, Female Command and the Specialized Institution Command. The public may obtain information from the Division of Prisons at 831 West Morgan Street, Raleigh, North Carolina, 27603, and by telephone at (919) 733-3226 or (919) 733-4926.

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The North Carolina Parole Commission is comprised of five full-time members appointed by the Governor. It is an autonomous agency within the Department. The Parole Commission determines parole eligibility and assists the Governor's Office with commutation and pardons. It is also authorized to revoke or suspend paroles. The public may obtain information from the Parole Commission at 831 West Morgan Street, Raleigh, North Carolina, 27603, and by telephone at (919) 733-3414.

The Inmate Grievance Resolution Board is comprised of five members appointed by the Governor. The purpose of this Board is to provide inmates with an administrative process for resolution of grievances or complaints. The public may obtain information from the Inmate Grievance Resolution Board at 1307 Glenwood Avenue, Suite 260, Raleigh, North Carolina, 27605, and by telephone at (919) 733-2957.

The public may obtain information about and make submissions or requests to the Department of Correction in person at 214 West Jones Street, Raleigh, North Carolina, 27603-1337, and by telephone at (919) 733-4926.

### **NORTH CAROLINA DEPARTMENT OF CULTURAL RESOURCES**

The North Carolina Department of Cultural Resources was created in 1971. The first cabinet level agency of its kind in the United States, the new department brought together a number of existing councils, commissions, and agencies for the first time.

The mission of the Department of Cultural Resources is to enrich the cultural, educational, and economic well-being of citizens and visitors to North Carolina through the preservation, development, promotion, and dissemination of artistic, historical, and informational resources.

This is done through the operation of the Department's three major divisions: Archives and History, the State Library, and the Arts Council, and two semi-autonomous agencies, the Museum of Art and the North Carolina Symphony.

### **NORTH CAROLINA STATE BOARD OF ELECTIONS**

The State Board of Elections serves the electorate by appointing and training County and Municipal Election Officials prior to each primary and election as mandated by law, providing copies of all election laws, rules and regulations,

and ballots and registration forms as prescribed by law.

The State Board must hear and act on complaints on failure or neglect of a Board of Elections as well as conduct investigations and hearings on complaints of fraud and irregularities in any elections or the Campaign Reporting Act, preparing presentations to Grand Juries.

The Campaign Reporting Office provides the public with campaign disclosures of campaign contributions and expenditures by candidates and committees and provides supervision of County Boards of Elections.

### **OFFICE OF THE GOVERNOR**

The Office of the Governor is one of the 19 major departments in the Executive Branch of State Government. The Office is comprised of such personnel as the Governor needs to carry out his functions as chief executive officer of the State and director of the budget.

The following divisions and personnel of the Office of the Governor are located in the Administrative Building, 116 West Jones Street, Raleigh, NC 27603: The Governor's Office of Citizen Affairs; Ombudsman's Office; Office of Budget and Management; Boards, Commissions and Personnel Appointments; Senior Education Advisor; Non-Public Education; Special Assistant for Minority Affairs; Science Advisor; General Counsel; Legal Counsel; Special Counsel; Legislative Counsel; Legislative Services; Executive Advisor; and Agriculture Advisor.

The Governor's Chief of Staff, Deputy Chief of Staff, Scheduler, Personal Secretary, and Communications Office are located at the State Capitol Building, Raleigh, NC 27603.

The Governor's Eastern Office is located at P. O. Box 985, New Bern, NC 28560.

The Governor's Western Office is located at Haywood Building, Suite 300, 46 Haywood Street, Asheville, NC 28801.

The Governor's Washington Office is located at 444 B, Capitol Street, NW, Washington, DC 20002.

The Governor's Mansion is located at 200 N. Blount Street, Raleigh, NC 27601.

Mailing Address:  
Office of the Governor

## **STATEMENTS OF ORGANIZATION**

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116 West Jones Street  
Raleigh, NC 27603-8001  
Telephone: (919) 733-5811

### **NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES**

The North Carolina Department of Human Resources is one of the principal departments in the Executive Branch of State government. Its mission is to deliver or oversee the delivery of human services to the citizens of North Carolina and to participate in the development of human resources in the State.

To accomplish these objectives, the Department of Human Resources works to obtain needed legislation in the subject areas under its authority, adopts rules to govern the administration of its programs, and channels State and Federal funds to many local grantees and provider agencies in the service delivery system. As the supervision of programs and the allocation of funds carry with them significant responsibilities, the Department of Human Resources performs monitoring and enforcement functions as well.

The Secretary of the Department of Human Resources, the administrative head of the agency, is appointed by the Governor and serves at the pleasure of the Governor.

The Department of Human Resources is divided into the following divisions:

- (1) Division of Aging;
- (2) Division of Facility Services;
- (3) Division of Economic Opportunity;
- (4) Division of Medical Assistance;
- (5) Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
- (6) Division of Services for the Blind;
- (7) Division of Social Services;
- (8) Division of Vocational Rehabilitation Services;
- (9) Division of Youth Services; and
- (10) Division of Services for the Deaf and Hard of Hearing.

Members of the public may obtain information from and make submissions or requests to the Department of Human Resources by communicating with the agency in writing or in person at 101 Blair Drive, Raleigh, North Carolina 27603 or by calling 1-800-662-7030. Inquiries concerning specific programs or subject areas within the purview of the Department of Human Resources may also be directed to the appropriate division.

### **NORTH CAROLINA DEPARTMENT OF INSURANCE**

The Department of Insurance regulates the various kinds of insurance sold in North Carolina and the companies and agents that sell it.

Specifically, the Commissioner and the Department:

- Oversee the formation and operation of insurance companies
- Enforce financial standards for their licensing and operations
- Regulate premium rates insurers may charge, the language in their insurance policies, and their risk classification systems
- Require periodic financial disclosures by insurers and agents
- Provide for audits of insurers in order to monitor their solvency
- License and regulate agents, brokers, and claims adjusters
- Determine what kinds of insurance may be sold in this State
- Provide information and assistance to insurance consumers who may be having problems with their coverage
- Prohibit unfair and deceptive trade practices by persons in the business of insurance.

**PUBLIC SERVICES GROUP**

The AGENTS SERVICES DIVISION licenses and regulates insurance agents, adjusters, brokers, and damage appraisers; reviews applications for and oversees licensing examinations; and main-

## **STATEMENTS OF ORGANIZATION**

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tains a file on every licensed individual doing business in North Carolina.

The CONSUMER SERVICES DIVISION helps North Carolina consumers get answers to their insurance questions and resolve their insurance problems. A large staff of consumer specialists advises and acquaints consumers with courses of actions they may pursue to solve their particular problems.

### **• COMPANY SERVICES GROUP**

The FINANCIAL COMPLIANCE DIVISION monitors the solvency of insurance companies; reviews admission applications of foreign, domestic, and surplus lines companies seeking to do business in the State; audits domestic and foreign insurance organizations; and helps assure the solvency and stability of employers and employer groups that self-insure their workers' compensation liabilities.

The ACTUARIAL SERVICES DIVISION assists in the review of rate, form, and statistical filings. It also conducts actuarial studies for financial evaluation of insurers and is involved in special projects and studies.

The INFORMATION SYSTEMS DIVISION is responsible for all Departmental data processing, word processing, office automation, and data and voice communications.

### **• TECHNICAL SERVICES GROUP**

The PROPERTY AND CASUALTY DIVISION reviews homeowners, farmowners, automobile, workers' compensation, and other personal and commercial property or casualty insurance policies, rates, and rules. It also licenses rating, advisory, and underwriting organizations.

The LIFE, AND HEALTH DIVISION reviews rate, rule, and policy form filings made by life and health insurance companies. It also administers advertising and life insurance replacement regulations.

The MARKET CONDUCT DIVISION monitors insurance company behavior in the marketplace and its effect on consumers. It also conducts field examinations of the market practices of insurers and their representatives.

### **• REGULATORY SERVICES GROUP**

The SPECIAL SERVICES DIVISION licenses and regulates insurance premium finance com-

panies, professional bail bondsmen and runners, collection agencies, and motor clubs. It also investigates all related complaints.

The INVESTIGATIONS DIVISION investigates criminal and civil violations of the State's insurance laws. Requests for investigations come from within the Department and from consumers, law enforcement agencies, local, State, and federal agencies, and insurance companies.

### **• SAFETY SERVICES GROUP**

The ENGINEERING DIVISION administers the State Building Code. Providing staff to the N.C. Building Code Council and the N.C. Code Officials Qualifications Board, it comprises seven sections: Code Consultant, Electrical, Mechanical, Modular, Inspector Certification, Building Code Council, and Accessibility, which oversees compliance with accessibility requirements for the handicapped.

The MANUFACTURED HOUSING DIVISION sees that construction standards for manufactured homes are complied with and that warranty obligations under State law are met. It monitors the handling of consumer complaints, licenses the makers, dealers, sales representatives, and set-up contractors of manufactured homes and provides staff services to the N.C. Manufactured Housing Board.

The STATE PROPERTY FIRE INSURANCE FUND DIVISION administers the self-insurance fund for State-owned property and vehicles. It collects premiums from those State agencies responsible for payment, investigates claims, adjusts losses, and pays losses with Council of State approval.

The RISK MANAGEMENT DIVISION assists local governments with property and casualty insurance programs and provides staff and research services to the Public Officers' and Employees' Liability Insurance Commission. It is also charged with making available a plan of professional liability coverages for law enforcement officers, public officials, and employees of any political subdivision of the State.

The FIRE AND RESCUE SERVICES DIVISION administers the Firemen's Relief Fund, trains fire departments and rescue squads, and works to improve fire and rescue protection in conjunction with the N.C. Firemen's Association and N.C. Association of Rescue Squads. It also administers matching grants to volunteer fire depart-

## **STATEMENTS OF ORGANIZATION**

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ments and rescue squads and offers fire prevention education in the public schools.

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### **BOARDS AND COMMISSIONS IN THE DEPARTMENT**

- N.C. Self-Insurance Guaranty Association
- N.C. Code Officials Qualifications Board
- N.C. Building Code Council
- N.C. Manufactured Housing Board
- N.C. Health Insurance Trust Commission
- N.C. Medical Database Commission
- N.C. Fire and Rescue Commission
- N.C. Public Officers' and Employees' Liability Insurance Commission

### **SPECIAL PROGRAMS AND SERVICES**

- SENIORS' HEALTH INSURANCE INFORMATION PROGRAM--SHIIP has trained thousands of adults in nearly every county in the State to counsel senior citizens in the areas of Medicare, Medicare supplement and long-term care insurance policies, and claims procedures.
- OFFICE OF MINORITY ASSISTANCE--OMA provides assistance to minorities, women, and economically disadvantaged persons, professionals, and businesses.
- N.C MEDICAL DATABASE COMMISSION--The Commission serves as a public source of data for analyzing health issues and for making decisions about the planning, management, delivery, and purchase of health care services.
- MARKET ASSISTANCE PROGRAM-- Begun as a result of an availability crisis in commercial liability insurance, MAP helps individuals and businesses locate needed coverages.
- REGIONAL OFFICES-- The Department's offices in New Bern and Asheville have brought the full range of Department services closer to the public.

### **NORTH CAROLINA DEPARTMENT OF JUSTICE**

2 West Morgan Street  
Raleigh, North Carolina

The North Carolina Department of Justice was created under the provisions of General Statutes Chapter 114. The Department is under the supervision and direction of the Attorney General, who is elected by the qualified voters of the State for a four-year term pursuant to Article III, § 7 of the North Carolina Constitution and is a member of the Council of State. The Department is organized into five principal subdivisions.

#### **ADMINISTRATION DIVISION - (733-3377)**

Administration provides administrative services and support to the other branches of the Department of Justice. It is comprised of the:

- (1) Office of the Controller;
- (2) Budget Section;
- (3) Personnel Section;
- (4) Purchasing/Property Section.

#### **LEGAL SERVICES DIVISION**

Legal Services is comprised of approximately 165 attorneys together with support staff of paraprofessionals, secretaries, and clerical employees. The Division provides a complete range of legal services to State agencies, boards, and commissions and to State officials and employees in matters arising out of their official duties. It also provides services to certain local agencies and officials. The Legal Division is divided into divisions and sections, which generally relate to areas of legal specialization.

- (1) The Administrative Division, comprised of the:
  - Collections Section (733-4029)
  - Elections Section (733-6026)
  - Health and Public Assistance Section (733-4618)
  - Human Resources and Medical Facilities Section (733-4618)
  - Legislative Drafting and Codification Section (733-6026)
  - Real Estate Section (733-9580)
  - Service to State Agencies Section (733-6026)
  - Tort Claims Section (733-3805)

- (2) The Civil Division, comprised of the:

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Highway Section (733-3316)  
Labor Section (733-4721)  
Property Control Section (733-7408)  
Motor Vehicles Section (733-3254)  
Revenue Section (733-3252)

(3) The Criminal Division, comprised of the:

Appellate Section (733-6012)  
Correction Section (733-7188)  
Crime Control Section (733-7952)  
Federal Habeas Corpus Section (733-3109)  
Medicaid Investigations Section (733-5760)  
Special Prosecutions Section (733-2011)

(4) The Trade and Commerce Division, comprised of the:

Consumer Protection/Antitrust Section (733-7188)  
Environmental Section (733-5725)  
Utilities/Insurance Section (733-6118)

(5) Special Litigation/Education (733-3786 / 733-7387)

### **POLICY AND PUBLIC AFFAIRS DIVISION** (733-3377)

This branch is instrumental in developing internal and external policy for the Department and provides liaison between the Department and the media, the legislature, and the general public.

### **TRAINING AND STANDARDS DIVISION** (733-3377)

The Division promotes professional development and integrity in the criminal justice professions through developing standards for employment and certification and providing professional training and technical assistance. The Division provides coordinated staffing support to various boards, commissions, and associations in the criminal justice field, provides criminal justice training courses and instructional resources, provides police legal advice to local agencies, and publishes current material of interest to those in the criminal justice field. The Division is comprised of the:

(1) Criminal Justice Standards Division (733-2530)

(2) Justice Academy, P.O. Drawer 99, Salemburg, N.C. 28385 (919) 525-4151

(3) Justice Officers' Standards Division (733-9236)

(4) Law Enforcement Liaison Section (733-4723)

The Division administers, in addition, the Information Services Section, which provides technical assistance, maintenance, and training related to the office automation network of the Legal Services Division. The Section's telephone number is 733-9236.

Members of the public may obtain information or make requests to the Department of Justice by writing to the North Carolina Department of Justice, P.O. Box 629, Raleigh, North Carolina 27602 or by calling (919) 733-3377. Inquiries concerning specific subject areas may be directed to the appropriate division or section as listed above. Persons desiring to communicate with the State Bureau of Investigation should use the address or telephone numbers set out below.

### **STATE BUREAU OF INVESTIGATION**

3320 Old Garner Road  
Raleigh, North Carolina 27610-5698  
Telephone (919) 779-1400

This division of the Department of Justice is charged with the responsibility for providing methods for identification and apprehension of criminals, for the scientific analysis of evidence of crime, and preparation of evidence to be used in criminal courts. It also has a specific investigatory function with regard to certain types of crime when the investigation is ordered by the Governor and/or the Attorney General. This function includes assisting sheriffs, police officers, district attorneys, and judges and investigating controlled substance violations, lynchings, mob violence, election fraud, Social Security fraud, gambling, theft or damage to State property, and other crimes specified in Article 4 of General Statutes Chapter 114. It has the added responsibility for coordinating and providing inter- and intra-state communications among law enforcement agencies. The Bureau is comprised of the:

(1) Administrative Division (779-1400)

(2) Field Investigation Division (779-1400)

(3) Crime Laboratory (779-1400)

(4) Division of Criminal Information (733-3171)

## **STATEMENTS OF ORGANIZATION**

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The Bureau provides administrative support to the:

- (1) Private Protective Services Board (779-1611), which is responsible for the adoption and enforcement of regulations and standards and administration of statutes governing licensing, education, and training of persons, firms, and corporations acting as or engaged in the business of providing private armed or unarmed security guards, including private investigators; and
- (2) Alarm Systems Licensing Board (779-1611), which is responsible for the adoption and enforcement of regulations and standards and administration of statutes governing licensing, education, and training of persons, firms, and corporations engaged in the business of selling, installing, servicing, or responding to alarm systems designed to detect unauthorized entry or intrusion.

### **NORTH CAROLINA DEPARTMENT OF LABOR**

The Department of Labor is an independent executive agency created under Chapter 95 of the North Carolina General Statutes. The department is responsible for promoting the safety, health and general well-being of the industrial population of the state. The department administers and enforces health and safety regulations, wage and hour laws, apprenticeship regulations, mine and quarry regulations, elevator, amusement device and aerial passenger tramway regulations, boiler and pressure vessel regulations, regulations for private employment agencies, the hazardous chemical right-to-know law and the migrant housing law. In addition, the department offers arbitration and mediation services for labor management disputes.

The Commissioner of Labor, who is a member of the Council of State and elected by the people of the state for a term of four years, is the executive and administrative head of the department. The Commissioner is assisted by an assistant commissioner and a special assistant for productivity.

The department is organized into three major groups, each under the supervision of a deputy commissioner. These groups are Administration and Regulation, Education and Training, and Health and Safety.

The Administration and Regulation Group is supervised by the Chief Deputy Commissioner. This group is composed of the Arbitration, Conciliation and Mediation Division, the Private Personnel Service Division, the Research and Statistics Division, and the Wage and Hour Division.

The Arbitration, Conciliation and Mediation Division works to promote permanent labor-management peace and to protect the interests and rights of labor, management, and the people of the state by the prevention and prompt settlement of labor disputes. The division offers (1) voluntary arbitration services of labor disputes through its voluntary arbitration panel, (2) conciliation and mediation services in labor disputes, (3) educational services in labor relations, and (4) technical services in labor relations.

The Private Personnel Services Division regulates and licenses private personnel services and job listing services by enforcing the provisions of the Regulation of Private Personnel Services Act and the Regulation of Job Listing Services Act.

The Research and Statistics Division compiles and publishes comprehensive data on occupational injuries and illnesses in the state. The division also assembles and publishes monthly data on building activity in North Carolina by county and by cities.

The Wage and Hour Division enforces the minimum wage, overtime, wage payment, and youth employment laws of the state. The division investigates worker complaints and collects back wages due employees.

The Education and Training Group is organized into two divisions: Apprenticeship and Training, and Pre-Apprenticeship.

The Apprenticeship and Training Division promotes and monitors a broad range of apprenticeship programs designed to train journeyman-level craftworkers to meet the demands of industries for high-skilled workers. Apprenticeship programs are established with private employers or under the sponsorship of labor-management committees. Apprenticeships combine on-the-job experience with related technical training furnished by the individual employer or at a technical institute or community college. The division establishes standards, approves apprenticeship programs which meet established criteria, is a records depository and issues completion certificates to citizens who complete apprenticeship training.

## **STATEMENTS OF ORGANIZATION**

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The Pre-Apprenticeship Division promotes opportunities for skills training through on-the-job training programs, pre-apprenticeship programs, and skills up-grading programs. Division representatives meet employers to help design skill training programs designed to meet the employers' needs.

The Health and Safety Group is organized into six divisions: the Boiler and Pressure Vessel Division, the Elevator and Amusement Device Division, the Mine and Quarry Division, the Occupational Safety and Health Division and the Right-to-Know Division.

The Boiler and Pressure Vessel Division regulates the construction, installation, repair, alteration, inspection, use and operation of vessels subject to the Uniform and Pressure Vessel Act of North Carolina. The division conducts periodic inspections, monitors inspection reports by certified insurance company inspectors, and issues operating certificates to owners and operators whose equipment is found to be in compliance with the act.

The Elevator and Amusement Device Division is responsible for the proper installation and safe operation of all elevators, escalators, workers' hoists, dumbwaiters, moving walks, aerial passenger tramways, amusement rides, inclined railways and lifting devices for persons with disabilities which operate in public establishments and private places of employment.

The Mine and Quarry Division enforces the Mine Safety and Health Act of North Carolina. The division conducts a program of inspections, education and training, technical assistance, and consultation to implement the Act. The division also assists mine and quarry operators to comply with the provisions of the 1977 federal Mine Safety and Health Act.

The Occupational Safety and Health (OSH) Division administers and enforces the Occupational Safety and Health Act of North Carolina which is a broadly inclusive law that applies to most private sector employment in the state, and to all agencies of state and local government. The division also administers a program for the registration and inspection of housing provided to migrant agricultural workers. In addition to enforcing the state OSHA standards, the program offers free consultative services, education and training opportunities, and engineering assistance to employers under its jurisdiction. The OSII Division also administers the Safety Awards

Program which recognizes private firms and public agencies which achieve and maintain good safety records.

The Right-to-Know Division administers the North Carolina Hazardous Chemicals Right-to-Know Act of 1985 which requires all users of hazardous chemicals in amounts of at least 55 gallons or 500 pounds to provide lists of these materials to local fire chiefs.

Six advisory groups assist the Commissioner with policy development and program planning. These are the Apprenticeship Council, the Board of Boiler and Pressure Vessel Rules, the Industry Advisory Board, the Mine Safety and Health Advisory Council, and the Occupational Safety and Health Advisory Council, and the Private Personnel Services Advisory Council. A separate unit independent from the Department of Labor is the Occupational Safety and Health Review Board, which hears appeals of citations and penalties imposed by the OSH Division and whose members are appointed by the Governor.

The public may obtain information from and make submissions or requests to the Department of Labor in person or by mail at 4 West Edenton Street, Raleigh, North Carolina 27601 or by telephone as follows:

Administration  
(919) 733-7166

Apprenticeship and Training Division  
(919) 733-7533

Arbitration, Conciliation and Mediation  
Division  
(919) 733-7495

Boiler and Pressure Vessel Division  
(919) 733-2383

Budget and Purchasing  
(919) 733-7426

Communications Division  
(919) 733-4904

Elevator and Amusement Device Division  
(919) 733-7394

Library  
(919) 733-2799

Mine and Quarry Division  
(919) 733-7428

## ***STATEMENTS OF ORGANIZATION***

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Occupational Safety and Health Division  
(919) 733-2486

Personnel Division  
(919) 733-6943

Pre-Apprenticeship Division  
(919) 733-6550

Private Personnel Service Division  
(919) 733-4895

Publications Division  
(919) 733-6590

Research and Statistics Division  
(919) 733-4940

Right to Know Division  
(919) 733-2658

Safety Awards Program  
(919) 733-5683

Wage and Hour Division  
(919) 733-2152

### **THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

The Department of Crime Control and Public Safety (CC&PS) was created in 1977 when the General Assembly passed legislation to restructure the Department of Military and Veterans Affairs. As its name implies, CC&PS is comprised of essential State services related to the well-being of North Carolina's more than seven million citizens.

The Department serves as the State's chief protector and defender of the general public. Agencies of the Department enforce State laws--in particular those involving alcohol, drugs and traffic--assist local agencies in preventing crime, and work to maintain an effective criminal justice system.

The Department also protects the State's citizens from natural and manmade emergencies. By conducting public awareness programs and training, and by preparing emergency response plans, CC&PS strives to prevent injuries and deaths. The Department coordinates the State's response to emergencies and directs relief efforts to disaster victims.

The Department consists of the Office of the Secretary; four commissions: the Governor's

Crime Commission, the N. C. Crime Victims Compensation Commission, the N. C. Emergency Response Commission, and the Governor's Advisory Commission on Military Affairs; and nine divisions: Alcohol Law Enforcement, Butner Public Safety, Civil Air Patrol, Crime Prevention, Emergency Management, the staff of the Governor's Crime Commission, N. C. National Guard, State Highway Patrol and Victim and Justice Services.

### **ALCOHOL LAW ENFORCEMENT**

The Division of Alcohol Law Enforcement (ALE) enforces the State's laws governing the sale, purchase, manufacture, transportation, and possession of intoxicating liquors and controlled substances. Anyone who sells beer, wine or alcohol in North Carolina must have a license. Before that license can be issued, an ALE agent must investigate the applicant and the place where the products will be sold. Once the license is granted, ALE agents check back periodically to ensure that no liquor or drug laws are being violated.

With the passage of the Safe Roads Act of 1983 and the drinking age change law of 1986, ALE is making a special effort to reduce the sale of alcohol to anyone under the age of 21. ALE agents routinely conduct undercover operations to determine if licensed outlets are selling to minors or intoxicated patrons.

Enforcement is one part of an ALE agent's job. Public education and awareness are also important. ALE agents conduct Driving While Impaired (DWI) Source Prevention seminars at which employees of outlets are instructed about the irresponsible serving of alcohol. Agents also speak to community, church, civic, professional, and school groups about alcohol laws and regulations.

### **BUTNER PUBLIC SAFETY**

Butner Public Safety officers are trained to perform a variety of functions, and their jurisdiction covers some 35 square miles. Officers patrol the streets of Butner and the grounds of government operations located there. They provide police and fire protection to the State and federal facilities, including the 4,600 acre National Guard Training Range and the Butner Federal Correctional Facility, as well as the residential, business, and industrial community of Butner. An officer is also equipped with a drug dog, a Belgian Malinois, trained to search for narcotics.

## **STATEMENTS OF ORGANIZATION**

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The division traces its roots to the Camp Butner Fire Department set up in 1942 when Camp Butner was established as a U. S. Army Training Camp. In 1947, the State purchased the property from the federal government for \$1 and went about creating a center for the mentally ill, later named John Umstead Hospital. As the complex and community grew, the staff was trained as both firefighters and policemen and the unit was renamed the Public Safety Department. It was transferred from the Department of Human Resources to CC&PS in 1981, and was renamed the Butner Public Safety Division.

### **CIVIL AIR PATROL**

The Civil Air Patrol (CAP) is a volunteer organization and an official auxiliary of the United States Air Force. The CAP has three missions of service to the public: emergency services, including communications, aerospace education and training, and a cadet training and motivation program. The CAP's best known activities are its search and rescue missions for missing or downed aircraft, and its providing of disaster relief assistance during emergencies.

CAP personnel play a vital role in the State's emergency plan. Personnel fly aircraft for transportation and provide aerial photography and courier services. The Civil Air Patrol's communications system provides back-up communications during disasters.

CAP also promotes aerospace education. Interest is encouraged by membership in the CAP cadet program, which is a strong part of CAP's service to North Carolinians. It gives men, women, boys, and girls opportunities for leadership and education through aviation. Cadets regularly participate in drills and exercises to test each squadron's readiness to respond to a call for assistance.

There are 39 squadrons in the North Carolina CAP wing. Many CAP members operate their own airplanes and fly at their own expense. Membership dues, donations, grants, estates, State funds, and Air Force reimbursements account for a large portion of the CAP budget.

### **CRIME PREVENTION**

The Crime Prevention Division works to prevent crimes against property, crimes of violence, and juvenile crimes in North Carolina. The division provides crime prevention education to the citizens of North Carolina through various organizations including law enforcement, schools,

community groups, and the news media. The goal is to get citizens involved in the fight against crime by establishing school, community, county and statewide crime prevention programs.

Staff members of the Crime Prevention Division keep track of changing crime trends and stay abreast of the latest State and national crime prevention programs. In addition to providing technical assistance to reduce crime, crime prevention specialists work toward reducing the fear of crime.

A variety of crime prevention programs are promoted and coordinated by the division. These include Community Watch, Crime Prevention in Public Housing, Crime Prevention in Business, Sexual Assault Prevention, Child Safety, Crime Stoppers, Youth Against Crime, Think Smart, and others. A variety of materials are available, free of charge, from the division.

### **EMERGENCY MANAGEMENT**

The Division of Emergency Management is responsible for protecting North Carolinians from the effects of disasters, natural and manmade. The division offers assistance to local and county officials through the State office and six area offices strategically located across North Carolina. Division personnel coordinate with local governments to develop emergency action plans for such hazards as chemical spills, fires, floods, tornadoes, hurricanes and nuclear incidents. These plans are routinely tested by communities during drills and table-top exercises with the assistance of the division's training staff.

When an emergency arises or a disaster threatens, the State's response is directed by the State Emergency Response Team (SERT). Representatives from every State agency serve on the team, which works out of the Emergency Operations Center (EOC) in Raleigh.

The Division operates the North Carolina Center for Missing Persons. Personnel trained in missing persons cases and search techniques are ready to respond in an emergency. The Division of Emergency Management administers and provides staff to the N.C. Emergency Response Commission. The Commission was formed as required by the Superfund Amendments and Reauthorization Act, known as SARA. This act concerns emergency planning and community right-to-know laws for potentially harmful materials. The 15-member Commission is responsible for reviewing local emergency response plans to handle these materials in the event of an acci-

## **STATEMENTS OF ORGANIZATION**

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dent at hazardous waste or chemical plants in the State.

### **GOVERNOR'S CRIME COMMISSION**

The Governor's Crime Commission is the chief advisory board to the Governor and the Secretary of Crime Control and Public Safety on crime and justice issues.

The Commission is made up of 40 members, including the heads of statewide criminal justice and human service agencies as well as representatives from the courts, law enforcement, local government, and the Legislature. Juvenile justice officials and concerned citizens also serve on the Commission.

As a coordinating and planning body, the Commission studies issues and make reports to the Governor on a wide range of criminal justice subjects and has been a force in the passage of such laws and programs as North Carolina's tough Driving While Impaired Law, Community Service Work Program, Community Watch Program, and Rape Victim Assistance Program. Community-based alternatives to prison, in-school suspension, juvenile court counselors, and computerized criminal justice information systems were also recommended by the Commission.

The staff of the Governor's Crime Commission is responsible for researching the issues under review by the Commission and writing the resulting reports to the Governor, including a biennial legislative agenda which recommends statutory changes in criminal laws.

The Division responds to daily requests for crime data and related information from other State agencies, the public, and the news media. Additionally, the Commission administers three federal grant programs totaling more than \$11 million annually. These projects provide program funds in juvenile justice, victims services, drug enforcement, and criminal justice system improvements.

### **NORTH CAROLINA NATIONAL GUARD**

The North Carolina National Guard, with its more than 13,500 members, has a dual role. It is a federal reserve force subject to the call of the President to perform national defense missions. The Guard is also on call at the Governor's request on the State level.

Under the direction of the State Adjutant General, Guard soldiers are trained and equipped with the military's most up-to-date weapons and aviation systems.

As part of its peacetime mission, the National Guard assists the public in times of emergency or civil disorder. Guard aviation units support local governments in searching for missing persons, assisting law enforcement personnel with aerial searches for marijuana, fighting forest fires, and carrying drinking water to communities suffering from drought or contaminated water supplies.

The North Carolina Army National Guard has more than 12,000 personnel assigned in over 100 communities statewide. The North Carolina Air National Guard, with units in Baden and Charlotte, has more than 1,500 personnel. Also under the direction of the State Adjutant General is the State Defense Militia, a volunteer organization which assists the State in emergencies or when Guard units are called to active duty.

### **NORTH CAROLINA HIGHWAY PATROL**

Since 1929, the North Carolina State Highway Patrol has provided for the public safety by enforcing motor vehicle and criminal laws on State roads. The Patrol is the largest State law enforcement agency, with more than 1,200 uniformed members and more than 300 non-enforcement support personnel. It is a proud organization with a rich history.

The Patrol is divided into eight troops with headquartered in Greenville, Fayetteville, Raleigh, Greensboro, Salisbury, Newton, Asheville, and Monroe. Each headquarters has its own garage and communications center. That network provides statewide communications for all State, county, and local public safety agencies.

The Highway Patrol Training Center in Raleigh provides a rigorous Basic School for cadets and continuing education programs for all Patrol personnel. Cadets undergo extensive training in all law enforcement subjects--including constitutional and criminal law--and are taught defensive and pursuit driving techniques on a modern track.

One of the Patrol's primary goals is to remove impaired drivers from the highways. "Operation Eagle", a special enforcement program, has helped the Patrol set records for drunk driving arrests. The Patrol's Interstate Enforcement Team delivers concentrated traffic law enforce-

## ***STATEMENTS OF ORGANIZATION***

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ment, accident investigation, and related services on North Carolina's nearly 1,000 miles of interstate highway. The team is specially trained in finding and arresting drug traffickers.

State Troopers provide many necessary services to North Carolina, such as assisting stranded motorists, directing traffic at public events and providing security for the Governor and visiting dignitaries. The Patrol also plays a vital role in the State's emergency response plan. With its highly mobile force, the Patrol is one of the first State agencies to respond to emergencies.

### **VICTIM AND JUSTICE SERVICES**

The Division of Victim and Justice Services administers statewide victim and community service programs. The victim programs include the Crime Victims Compensation Program. This program reimburses persons who suffer uninsured medical expenses and lost wages as a result of being crime victims. Victims may receive a maximum of \$20,000, plus an additional \$2,000 for funeral expenses if the victim dies from the crime. Claims must be submitted to the N.C. Crime Victims Compensation Commission for verification and approval.

Victims of rape and sexual assault may receive up to \$500 in financial assistance through the Rape Victims Assistance Program. This program also underwrites a standardized rape evidence collection kit that is used by hospitals to collect evidence.

The community service programs include Driving While Impaired Community Service, First Offender Programs (Misdemeanor and Felony Division), Court-Ordered Community Service, and Community Service Parole. The Division has field offices in each of the 36 judicial districts in North Carolina to administer these programs. The field staff is responsible for placing defendants in local, State, and non-profit agencies to perform free work as a condition of their suspended jail sentences, deferred prosecution, or parole.

### **NORTH CAROLINA DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

P.O. Box 27687  
Raleigh, North Carolina 27611-7687  
(919) 733-4984

### **MISSION STATEMENT**

To conserve our natural resources, protect the environment, and promote the public health through effective education of and service to the public, the voluntary actions of well informed citizens and responsible organizations, and the equitable enforcement of laws and regulations. The mission is fulfilled through the following departmental goals:

- \* Strengthen cooperative efforts with governmental agencies and other organizations in the delivery of high quality health, natural resource, recreational, and educational services.
- \* Promote and understand of natural ecosystems, the interdependence of living organisms, and the role of human activities in natural environments.
- \* Enhance the health of our citizens and reduce the incidence of preventable disease, disability, and premature death through the application of proven, effective public health measures.
- \* Restore, improve, and sustain the quality of air, water, and land resources.
- \* Encourage the wise management of our natural resources so that they are available to the citizens of the state for present and future use.
- \* Effectively and efficiently manage departmental resources to return the highest value of service to the citizens.

The head of the Department is the Secretary who is appointed by the Governor and serves at the pleasure of the Governor.

In addition to administrative functions, the Department is organized into the following divisions and programs:

### **ENVIRONMENTAL PROTECTION DIVISIONS**

Division of Coastal Management  
Division of Environmental Management  
Division of Land Resources  
Division of Radiation Protection  
Division of Solid Waste Management  
Division of Water Resources  
Office of Waste Reduction

### **PUBLIC HEALTH DIVISIONS**

Division of Adult Health Services  
Division of Postmortem Medicolegal Examination  
Division of Dental Health

## **STATEMENTS OF ORGANIZATION**

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Division of Environmental Health  
Division of Epidemiology  
Division of Laboratory Services  
Division of Maternal and Child Health  
Office of Health Education

### **NATURAL RESOURCES DIVISIONS**

Division of Forest Resources  
Division of Marine Fisheries  
North Carolina Zoological Park  
Division of Parks and Recreation  
Division of Soil and Water Conservation

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The Wildlife Resources Commission and its staff are responsible to the Department for coordinating and reporting purposes.

A detailed account of each division follows.

### **ENVIRONMENTAL PROTECTION DIVISIONS**

**DIVISION OF COASTAL MANAGEMENT**  
225 North McDowell Street - Cooper Building  
P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-2293

The Division is responsible for implementing the North Carolina Coastal Management Program for the protection, preservation, orderly development and management of the state's twenty coastal counties. The Division provides staff support to the Coastal Resources Commission and Coastal Resources Advisory Council created by the Coastal Area Management Act (CAMA) of 1974 (G.S. 113A-100 et seq.). The Division processes major development permits; determines consistency of state and federal grants and projects with the North Carolina Coastal Management Program; prepares guidelines for local land use planning in the coastal counties; administers grants to local governments for planning, permitting and beach access programs; and manages coastal reserves as natural areas for research and education.

### **ORGANIZATION**

**Permitting and Enforcement** This section is responsible for securing and reviewing state, federal and public comments on CAMA major development permit application, drafting proposed decision documents, maintaining permit file, and reviewing federal agency actions, grants, and per-

mit decisions for consistency the North Carolina Coastal Management Program. Field services are provided from four regional district offices located in Elizabeth City, Washington, Morehead City and Wilmington. The field staff handles direct contact with CAMA major development permit applicants, including on-site evaluations of permit applications, and supports local government administration of the CAMA minor development permit program. The field staff is also responsible for enforcement actions against violators of permit conditions and other CAMA rules.

**Policy and Planning** This section provides technical support for the Division and Coastal Resources Commission. Raleigh staff conducts studies and administers grants necessary to support program operations, develops and evaluates proposed rules and policies for CAMA implementation, and reviews proposed revisions to Area of Environmental Concern designations. Field staff provides technical assistance to local governments for land use planning, beach access, and other local planning and management projects. The section assists in development of policy relating to such issues as wetlands, marina siting, public trust waters, cumulative impacts and resource evaluation.

**Coastal Reserves** This section is responsible for the identification, acquisition, and management of critical coastal natural areas to be preserved in a natural state for future research and education. Located in Wilmington, the unit also coordinates research and education activities for six reserve sites: Zeke's Island, the Rachel Carson Reserve, the Currituck Banks Reserve, Masonboro Island, Permuta Island, and Buxton Woods.

**Public Information**. This unit is responsible for education and public information services, including media contacts, presentations, workshops, newsletters, journals, brochures, and related materials.

### **COASTAL RESOURCES COMMISSION**

The Coastal Resources Commission was created to administer the Coastal Area Management Act of 1974. The Commission consists of 15 members appointed by the Governor to provide expertise and experience on different subjects related to coastal management.

The Commission is responsible for developing a management program for the coastal area by designating Areas of Environmental Concern in the 20 coastal counties by adopting policies,

## **STATEMENTS OF ORGANIZATION**

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standards and guidelines for coastal development and natural resource protection, and by approving local governments' land use plans (N.C.G.S. 113A-104).

### **COASTAL RESOURCES ADVISORY COUNCIL**

The Coastal Resources Advisory Council consists of not more than 47 members. The Council assists the Secretary of Environment, Health, and Natural Resources and the Coastal Resources Commission in an advisory capacity on technical questions relating to the development of rules and policies, and other matters arising under the Coastal Area Management Act (N.C.G.S. 113A-105).

### **COASTAL RESERVE ADVISORY COMMITTEES**

An Advisory Committee has been formed for each fully acquired Coastal Reserve under the Coastal Reserve Program. Each committee includes local officials, scientists, educators, adjacent landowners and site users. Reference to these advisory committees is included in 15 NCAC 7O .0104.

### **DIVISION OF ENVIRONMENTAL MANAGEMENT**

P.O. Box 29535  
Raleigh, NC 27626-0535  
(919) 733-7015

The Division is responsible for comprehensive planning and management of the state's air, surface water, and groundwater resources. The Division issues permits to control sources of pollution; monitors compliance at permitted facilities; evaluates ambient environmental quality; and pursues enforcement actions for violations of environmental regulations.

### **ORGANIZATION**

Air Quality Section. The Air Quality Section conserves and protects the State's air resources. The section develops air quality standards and emission control standards, and monitors air contaminant sources. The section administers the federal regulations which have been delegated to the State by the Environmental Protection Agency. By implementing the State and federal regulations designed to prevent significant deterioration, the section preserves the quality of clean air and the potential for continued economic growth.

Water Quality Section. The Water Quality Section strives to maintain the quality of the

State's surface waters at levels sufficient to protect their best intended uses. The Section performs four major functions: water quality monitoring which provides data for permit issuance and compliance, water quality assessments and special projects; computer modeling which evaluates the impacts of proposed discharges and recommends protective wasteload allocations; permitting which sets permissible pollution levels for both discharging and nondischarging wastewater treatment systems; and planning which updates and maintains water quality standards and classifications and administers the State's nonpoint source pollution program. The Section will also initiate technical assistance or enforcement actions to correct permit or standards violations.

Laboratory Section. The Laboratory Section provides analytical services to support the air, water and groundwater programs in the Division through two regional laboratories and a central laboratory. The regional laboratories are primarily responsible for bacteriological and biochemical analyses. The central laboratory provides a much broader range of chemical analyses. The Laboratory Section administers a certification program for commercial, municipal, and industrial laboratories performing wastewater analyses for permit holders. The laboratory staff also provides consultation assistance and limited training to municipalities and industries.

Groundwater Section. The Groundwater Section protects groundwater quality and promotes the wise management of the resource. The program objectives are threefold: 1) to prevent pollution by limiting the potential for the discharge of pollutants to the groundwaters; 2) to restore groundwater quality where impacted by man's activities; 3) to understand the factors and conditions affecting the use and availability of groundwater.

The section issues permits for certain classes of wells and registers water well contractors and pump installers.

Construction Grants. The Construction Grants Section helps local units of government finance wastewater pollution control facilities. It administers both the EPA Construction Grants Program and the Federally seeded State Revolving Fund (SRF) program which provide funding for wastewater treatment facilities. The Section provides technical review and certification for State funds under the N.C. Clean Water Revolving Loan Program. It also serves as a resource to local communities for providing

## **STATEMENTS OF ORGANIZATION**

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diagnostic evaluations of wastewater treatment facilities through the Municipal Compliance Initiative program. The Section also operates a Small Communities Outreach program to assist the State's smaller communities to achieve solutions to their wastewater treatment problems.

### **WASTEWATER TREATMENT PLANT OPERATORS CERTIFICATION COMMISSION (WWTPOCC)**

The purpose of the WWTPOCC is to protect the public health and to conserve and protect the quality of the water resources of the State. The Commission protects the public investment in wastewater treatment facilities by classifying wastewater treatment plants and requiring, through examination and certification, competent plant operators. North Carolina law creates the WWTPOCC and empowers the Commission to adopt rules with respect to the certification of treatment plant operators.

### **ENVIRONMENTAL MANAGEMENT COMMISSION**

The Environmental Management Commission is created and empowered under Chapter 143B-282 of the General Statutes of North Carolina. The seventeen member commission promulgates rules necessary to protect, preserve, and enhance the water and air resources of the State. Included in its duties are, the authority to grant permits and orders to control sources of air and water pollution; permit and inspect dam construction; establish water and air quality standards and classifications; protect the land and waters from oil pollution and leaking underground storage tanks storing oil or hazardous substances. The Commission investigates water and air pollution incidents and may assess penalties for violations of water and air standards.

### **DIVISION OF LAND RESOURCES**

P. O. Box 27687  
Raleigh, NC 27611  
(919) 733-3833

The Division of Land Resources is a Division of the Department of Environment, Health, and Natural Resources which is created by G.S. 143B-279 and G.S. 143B-275. The purpose of the Division of Land Resources is to protect and conserve the State's land, minerals, and related resources through the effective implementation and management of programs related to sedimentation pollution control, mined land reclamation, dam safety, land records management, geodetic survey, and mineral resources inventory, analysis, conservation, and development.

## **ORGANIZATION**

Geodetic Survey Section. The primary activity of the Geodetic Survey Section is to place precisely positioned, monumented survey points, often called stations, marks, or benchmarks, throughout the State for use in boundary surveys, chart making, transportation systems and other related activities. These survey points become a part of the North Carolina Coordinate system, which is an X and Y grid covering North Carolina.

Geological Survey Section. The Geological Survey Section examines, surveys and maps the geology of the State and publishes reports and maps for the private sector and the general public. The Section also administers the Oil and Gas Conservation Act.

Land Quality Section. The Land Quality Section is responsible for administering the North Carolina Mining Act of 1971, the North Carolina Sedimentation Pollution Control Act of 1973, and the North Carolina Dam Safety Act of 1967 (G.S. 143-215). In addition, this Section provides staff support for the Mining Commission and the Sedimentation Control Commission.

### **NORTH CAROLINA MINING COMMISSION**

This 9-member commission is appointed by the Governor to function as the regulatory body for the enhancement of the mining resources of North Carolina and to insure that mining activity is accomplished in a manner that protects the environment and the health, safety and welfare of the public pursuant to the North Carolina Mining Act of 1971 (G.S. 74-50 and 74-76).

### **NORTH CAROLINA SEDIMENTATION POLLUTION CONTROL COMMISSION**

This 11-member commission is appointed by the Governor to function as the regulatory body for the administration and enforcement of minimal mandatory standards which will permit development of North Carolina to continue with the least detrimental effects from pollution by sedimentation pursuant to the Sedimentation Pollution Control Act of 1973 (G.S. 113A-50).

### **DIVISION OF RADIATION PROTECTION**

P.O. Box 27687  
3825 Barrett Drive  
Raleigh, NC 27611-7687  
(919) 571-4141

## **STATEMENTS OF ORGANIZATION**

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The purpose of the Division of Radiation Protection is to protect the public and the environment from radiation hazards. Under the North Carolina Radiation Protection Act and rules of the North Carolina Radiation Protection Commission, the Division implements programs for regulatory permitting of facilities for the receipt and use of radioactive material, accelerators, x-ray machines and tanning equipment and for management of low-level radioactive waste. The Division also implements programs for ambient and source-oriented environmental radiation surveillance, for response to radiation emergencies and for advising the public on any radiation concerns.

### **ORGANIZATION**

Nuclear Facilities and Environmental Radiation Surveillance Section. This Section develops and implements monitoring and evaluation programs for radiation and radioactive contamination levels including radon in the statewide environment and in the off-site environs of facilities with potential for release of radiation and radioactivity to the environment.

Radioactive Materials Section. This Section licenses and inspects radioactive material and particle accelerator facilities to ensure protection of the public, workers and environment from radiation hazards. This Section specifically regulates and permits the receipt, possession, use, transfer and disposal of radioactive material and particle accelerators.

X-Ray Control Section. This Section registers and inspects all x-ray machines and facilities (medical, industrial, research, etc.) in the State with emphasis on worker, public and patient protection. This Section also implements the registration requirements for all tanning facilities in the State.

### **RADIATION PROTECTION COMMISSION**

This 21 member Commission (11 voting public and 10 nonvoting ex-officio) is appointed by the Governor and is empowered to promulgate rules to be followed in the administration of a radiation protection program. Through the active use of their committees, they advise the Department in the development of comprehensive policies and programs for the evaluation, determination, and reduction of hazards associated with the use of radiation.

### **DIVISION OF SOLID WASTE MANAGEMENT**

P.O. Box 27687

401 Oberlin Road, Suite 150  
Raleigh, NC 27611-7687  
(919) 733-4996

The Division is responsible for management of solid waste in a manner that protects the public health and environment. This is accomplished by providing comprehensive plans for management of solid waste, hazardous waste, and the clean-up of uncontrolled waste sites, providing technical assistance to local governments and waste generators for waste minimization and waste management, issuing permits for waste facilities, investigating sites, initiating enforcement actions for violations, and providing a public education program.

### **ORGANIZATION**

Solid Waste Section. This Section is responsible for developing, implementing and maintaining a comprehensive program for the management of solid waste. This is accomplished through permitting and compliance evaluations of sanitary landfills, waste to energy facilities, medical waste facilities, demolition landfills, transfer facilities, recycling facilities, and septage disposal sites. The Section is further responsible for development, implementation, and update of a comprehensive solid waste management plan for the state, review of local government solid waste management plans, and development and implementation of a regulatory framework for recycling, full cost accounting, special waste management, and the solid waste loan fund. Industrial and commercial recycling programs are certified in order to qualify for tax certifications.

Superfund Section. This Section is responsible for evaluating uncontrolled hazardous waste sites in North Carolina. The Section works with the U. S. Environmental Protection Agency to identify the most serious sites in the State, known as National Priority List (NPL) sites. The Section also evaluates uncontrolled hazardous waste sites which will not be cleaned up by the Federal Government. These sites may be cleaned up under the State Inactive Hazardous Sites Program.

Hazardous Waste Section. The Hazardous Waste Section educates the public and regulates the hazardous waste community by providing technical assistance through individual consultations and seminars, promotes waste minimization of hazardous waste, issues operating permits that specify requirements which each hazardous waste treatment, storage or disposal facility must meet,

## **STATEMENTS OF ORGANIZATION**

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conducts compliance audits at hazardous waste handlers and, with the cooperation of the State Attorney General's Office, takes enforcement actions against those found in violation.

Rule-making authority for this Division is vested in the Commission for Health Services.

**DIVISION OF WATER RESOURCES**  
P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-4064

The Division of Water Resources manages programs for planning, technical assistance, and financial assistance for river basin management, water supply, water conservation, navigation, stream clearance, flood control, beach protection, aquatic weed control, hydroelectric power, and recreational uses of water. The Division develops plans and special studies in cooperation with local governments and other state and federal agencies on complex water resource problems related to regional water use and interstate river basins.

### **ORGANIZATION**

**Water Resources Planning Section.** The Water Resources Planning Section develops water resources plans and special studies in cooperation with local governments and other state and federal agencies, performs instream flow fish habitat studies, conducts aquatic weed control projects, provides technical and financial assistance for local government-sponsored water development projects, prepares environmental assessments of major projects affecting water resources, and administers the Stream Watch Program and North Carolina Rivers Month.

**Water Supply Assistance Section.** The Water Supply Assistance Section provides technical assistance to counties, municipalities, and other public water supply systems and their consultants. Some of the services provided include: surveys of existing water supply systems, investigation of alternative and emergency raw water sources, coordination of regional cooperation between local water supply systems, evaluation of future water demands, information on sources of financial assistance, technical assistance for water conservation and leak detection, and notification to municipalities of potential water shortages.

**Hydrology and Management Section.** The Hydrology and Management Section provides information and interpretive studies on surface

water and ground water to other State agencies, federal agencies, and municipal and industrial water users and their consultants. Study topics include: reservoir operation, reservoir yield, ground water modeling for water supply planning, and low flow frequency.

### **ENVIRONMENTAL MANAGEMENT COMMISSION**

The Environmental Management Commission (EMC) receives staff support from the Divisions of Environmental Management, Water Resources, and Land Resources. The primary statutes administered by the Division of Water Resources for the EMC are the Water Use Act (GS 143-215.11 et seq.), the Water Emergency Act [GS 143-354(b)-(c)], and the Federal Water Resources Development Projects Act (GS 143-215.38 et seq.).

### **AQUATIC WEED CONTROL COUNCIL**

The Aquatic Weed Control Council meets twice a year to coordinate the activities of the numerous agencies involved in aquatic weed control and to exchange information on aquatic weed control methods. The Council reviews the proposed weed control program developed by the Division of Water Resources each year to assure that all effects on the environment and on public health have been adequately evaluated.

**OFFICE OF WASTE REDUCTION**  
P. O. Box 27687  
Raleigh, NC 27611-7687  
(919) 571-4100

This office is the lead agency on multi-media waste reduction. It oversees the State's pollution prevention, hazardous waste minimization, and recycling programs.

### **ORGANIZATION**

**Pollution Prevention Program (PPP).** The PPP provides positive alternatives to costly pollution control options to improve environmental quality and to generate economic benefits. The program supports and works with industries, to identify and apply techniques at the source of generation which will prevent, reduce, or recycle wastes before they become pollutants of North Carolina's environment. The program provides an information clearinghouse, technical assistance, and financial support to help reduce hazardous waste, wastewater discharges, air emissions, and industrial solid waste.

## ***STATEMENTS OF ORGANIZATION***

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**Solid Waste Reduction Program.** The Solid Waste Reduction Program coordinates reduction efforts on county, municipal and commercial levels in an effort to meet the State's 25 percent recycling goal by 1993. This program also provides policy development support to the Department on solid waste reduction issues and has been designated by the Governor to implement a State agency recycling program. The assistance offered to local governments and businesses include an information clearinghouse, technical assistance, education and training, and financial assistance to help reduce municipal solid waste.

### **PUBLIC HEALTH DIVISIONS**

#### **DIVISION OF ADULT HEALTH SERVICES**

1330 Saint Mary's Street  
P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-7081

The Division administers programs in the following areas: adult screening, arthritis, cancer control/ prevention, diabetes, epilepsy diagnosis/ treatment, health promotion, home health, AIDS care, human tissue donation, hypertension, kidney disease prevention/treatment, migrant and refugee health, and pharmacy services. Division programs provide for planned, programmatic efforts to prevent or reduce risks for chronic diseases, and refer and/or treat persons identified as having chronic diseases.

### **ORGANIZATION**

**Health Promotion Section.** This section establishes and maintains cooperative relations with local health departments and other health services providers in order to improve the health status, quality of life and productivity of adult North Carolinians by preventing disease, disabilities, and injury.

**Health Care Section.** The goal of the Health Care Section is to improve the health status, quality of life and productivity of medically indigent and other disadvantaged residents of North Carolina by reimbursing providers who deliver specified preventive and treatment health and medical care services.

### **COMMISSION OF ANATOMY**

The purpose of this Commission is to oversee the disposition of unclaimed bodies and of do-

nated bodies for the purpose of promoting the study of anatomy.

All other commission functions for this Division are vested in the Commission for Health Services.

### **DIVISION OF POSTMORTEM MEDICOLEGAL EXAMINATION**

Office of the Chief Medical Examiner  
Brinkhouse-Bullitt Building  
Chapel Hill, NC 27599-7580  
(919) 966-2253

The purpose of the Medical Examiner System is to investigate and certify deaths that are unattended, suspicious, or the result of violence (homicide, suicide, accident). The Division of Postmortem Medicolegal Examination conducts medicolegal autopsies and toxicological analyses, and consults with and supports the work of over 600 physicians who volunteer their services as local medical examiners and regional pathologists.

Rule-making authority for this Division is vested in the Commission for Health Services.

### **DIVISION OF DENTAL HEALTH**

1815-8 Capital Boulevard  
Peden Building  
Raleigh, NC 27604-2144  
(919) 733-3853

The mission of the Division of Dental Health is to promote, protect and assure dental health among the citizens of North Carolina. Current Division goals focus on improving oral health through the reduction of dental decay and periodontal disease. The Division accomplishes these goals through services provided directly to citizens through a statewide prevention and education program. These services are provided at the county level by state-supported dental public health staff assigned to local health departments. The services include:

\* School Dental Health Education: Dental health information is presented to children on appropriate dietary habits, consumerism, injury prevention, disease prevention, oral hygiene practices, and professional dental care practices. A dental health curriculum, Framework for Dental Health Education, including videos, study guides, and inservice training is available for teachers. This is coordinated with the N. C. Department of Public In-

## **STATEMENTS OF ORGANIZATION**

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struction's Statewide Comprehensive Curriculum.

\* Fluoride Promotion: Financial and technical assistance is provided to municipal and rural school water systems for securing and monitoring water fluoridation programs. Training is provided to water plant operators and school surveillance personnel. Dental public health staff supervise, coordinate, and administer the weekly fluoride mouthrinse program for schools.

\* Dental Care Services: Dental screening and referral is offered primarily to children in Kindergarten through Sixth Grade. Limited clinical services are available for indigent children who meet financial criteria. Indigent children eligible for Title XIX or School Health Funds are referred to privately practicing dentists. Prevention is stressed in the clinical program, and the provision of pit and fissure sealants is a top priority.

\* Community Dental Health Education: Educational information is presented to parents, teachers, health professionals, older adults, and others as time permits. Screening and referral programs may be available using volunteer dentists.

Rule-making authority for this Division is vested in the Commission for Health Services.

**DIVISION OF ENVIRONMENTAL HEALTH**  
1330 Saint Mary's Street  
P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-2870

The Division is responsible for administering eight programs in the following areas: food and lodging sanitation, institutional sanitation, milk sanitation, on-site sewage, shellfish sanitation, public water supply plans review, coastal mosquito management and sleep products sanitation.

### **ORGANIZATION**

**Environmental Health Services Section.** The Environmental Health Services Section goal is to protect the health, safety, and well being of residents and visitors of North Carolina from potential health hazards in the areas of food, lodging, and institutions; to oversee on-site sewage collection, treatment, and disposal systems;

to maintain the sanitary Grade "A" milk supply, and to assure that marketed shellfish, scallops and crustacea are safe for human consumption.

**Public Water Supply Section.** The purpose of the Public Water Supply Section is to ensure that safe, potable water is available in adequate quantities to the residents and visitors of the state served by public water supplies by assuring that such supplies are properly located, constructed and maintained. This is accomplished through a program which includes review and approval of water supply sites - plans and specifications, review of required laboratory reports of water samples from water systems, inspections, construction and training and follow-up investigations of spills and other contamination.

**Public Health Pest Management Section.** The Public Health Pest Management Section protects the residents of North Carolina from mosquito transmitted diseases, tick transmitted diseases and the nuisance and economic hardship produced by these organisms. The section provides education and training to the public and to public health professionals involved in pest management and enforces the laws and administrative rules for mosquito control on impounded waters of North Carolina. In addition, the section protects the public from disease and injury caused by bedding which contains disease-causing organisms, flammable materials, and toxic or irritant chemicals and materials by inspecting and testing bedding products at the point of sale and manufacture.

### **WATER TREATMENT FACILITY OPERATORS CERTIFICATION BOARD**

In 1969 the General Assembly passed the law providing for the certification of water treatment facility operators. G.S. 90A-20 states that the purpose of the certification program is "to protect the public health and to conserve and protect the water resources of the State; to protect the public investment in water treatment facilities; to provide for the classifying of public water treatment facilities; to require the examination of water treatment facility operators and the certification of their competency to supervise the operation of water treatment facilities; and to establish the procedures for such classification and certification".

All other commission functions for this Division are vested in the Commission for Health Services.

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**EPIDEMIOLOGY DIVISION**  
225 North McDowell Street  
P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-3421

The Division is responsible for administration of 17 diversified programs in the following areas: general communicable disease control, AIDS, immunization, tuberculosis control, sexually transmitted disease control, injury prevention, driver medical evaluation, chemical tests for alcohol, industrial hygiene consultation, dusty trades, occupational health nursing, asbestos hazard management, environmental epidemiology, pesticides, lead poisoning, veterinary public health and vital records. These programs provide for the assessment of risks posed to the population by certain communicable diseases environmental or occupational hazards, and such human hazards as the drinking driver. This assessment is accomplished through statistical surveillance, investigative epidemiology, and applied research. Once the risks are assessed, the various programs work to eliminate or control the risks through measures such as early treatment, immunization against vaccine-preventable diseases, epidemiologic follow-up of cases, and education of the public.

### **ORGANIZATION**

**Communicable Disease Control Section.** This section attempts to minimize the occurrence and control the spread of communicable diseases in North Carolina through surveillance, investigation of outbreaks, issuing control measures, immunization, treatment, consultation, education, and the provision of resources to local providers, primarily local health departments.

**Occupational Health Section.** The purpose of this section is to prevent and reduce the occurrence of occupational injuries and illnesses by promoting safe and healthy worksite. This is accomplished by recognizing, evaluating, and controlling health hazards (chemical, physical, biological, ergonomic, and psychosocial) as well as by consultation, education, and applied research. There are four basic programs: occupational health nursing consultation, industrial hygiene consultation, dusty trades, and asbestos hazard management.

**Vital Records Section.** Vital Records Section has the responsibility for registering all births, deaths, fetal deaths, marriages, and divorces reported in the state, coding these events for statistical purposes, maintaining the records

properly, and locating and providing copies to individuals and organizations requesting these records. The registration process involves a statewide system to register vital events in a timely and accurate manner. Once the events are registered, the information on birth and death certificates is coded in order to produce statistical data that are subsequently used to identify and accurately report problem areas such as infant mortality. Once vital events are registered, the documents are preserved in a secure environment and are corrected or amended as necessary. Certified and uncertified copies are provided as appropriate for a variety of uses, such as legal actions, passports, and assignment of Social Security numbers.

**Environmental Epidemiology Section.** Environmental Epidemiology assumes sole responsibility in state government for assessment of human risk due to advancements in technology as well as changes in North Carolina industry that increase risks of toxic and hazardous chemicals to individuals and groups. In addition, all health interests including private physicians, local health departments and hospitals use Environmental Epidemiology staff as the authoritative word on rabies and other diseases which are transmitted from animals to man and pose a threat to the health of the population of the State.

**Injury Control Section.** The mission of the Injury Control Section is to reduce morbidity and mortality from injuries in North Carolina, by means of surveillance, research, implementation of programs and policies, training, and enforcement. The main program areas are driver medical evaluation, training and certification of alcohol breath-test equipment operators, and assistance to local health departments in establishing injury prevention programs.

Rule-making authority for this Division is vested in the Commission for Health Services.

**DIVISION OF LABORATORY SERVICES**  
306 North Wilmington Street  
P.O. Box 28047  
Raleigh, NC 27611  
(919) 733-7834

This division provides testing of clinical and environmental specimens as a service to physicians, local health departments, other laboratories, as well as public and private organizations to aid in the monitoring, diagnosis and treatment of health problems and endeavors to improve the

## **STATEMENTS OF ORGANIZATION**

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quality and relevance of laboratory services performed across the state.

### **ORGANIZATION**

Cancer Cytology Section. This section examines cervical Pap smears for abnormal cells.

Environmental Science Section. This section provides environmental analytical services to a variety of programs dealing with microbiological, chemical, and radiological environmental concerns. It is also the certification group for drinking water and milk laboratories.

Laboratory Improvement Section. This section provides training and consultation for other laboratories.

Microbiology Section. This section assists in epidemiological investigations to establish the incidence of communicable disease and prevent the spread by isolating and identifying bacterial, mycotic, and parasitic agents of disease.

Newborn Screening/Clinical Chemistry Section. This section analyzes blood collected on filter paper from all infants born in the State for thyroid hormones, phenylalanine (PKU), galactose and hemoglobins (A,S,C,F). The section also analyzes blood for lead absorption levels, ABO groupings and Rh typing, as well as performing antibody screens on Rh negative patients. Screening testings are done to detect and monitor chronic diseases.

Virology/Serology Section. This section detects, isolates and identifies chlamydia and viruses. The section also does serologic tests for immune status to diagnose bacterial, chlamydial, fungal, mycoplasmal, parasitic, rickettsial, and viral diseases.

Rule-making authority for this Division is vested in the Commission for Health Services.

### **DIVISION OF MATERNAL AND CHILD HEALTH**

P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-3816

The mission of the Division is to assure, promote and protect the health of families, with emphasis on women of childbearing age, infants, children, and adolescents. The Division has two goals. One goal is to improve pregnancy outcome. Another goal is to enhance the health,

growth and development of all children and adolescents.

### **ORGANIZATION**

Women's Health Section. The Women's Health Section, through contracts with local providers and tertiary centers, seeks to reduce the incidence of poor pregnancy outcome by providing comprehensive care to low income women. Services include prenatal care, women's preventive health services and preconceptional health services. Other programs and grants administered by this Section include adolescent pregnancy prevention projects, high risk maternity clinics, the Sudden Infant Death Syndrome Program, Healthy Generations special projects grant, Rural Obstetrical Care Incentive funds, and Nurse-Midwifery project grants.

Children and Youth Section. The Children and Youth Section focuses on preventive health services for children such as child health screening through local health departments, school health, and genetic services. It also concentrates on early identification, evaluation and treatment of children with chronic handicapping conditions. The goal of the section is to prevent and ameliorate disabilities in an effort to maximize each individual's life potential. The section administers the Child Health Program, the School Health Program, the Genetic Health Care Program, the Sickle Cell Syndrome Program, the Developmental Evaluation Centers Program, and Children's Special Health Services.

Nutrition Services. The goal of the Nutrition Services Section is to improve the pregnancy outcome and health status of women and children determined to be at risk (defined as pregnant, postpartum and breastfeeding and lactating women, and infants and children from birth to five years of age who have household incomes of less than 185 percent of the federal poverty level) through the provision of supplemental foods, nutrition education and referral to health care. The section also concentrates on improving the nutritional status of all North Carolinians.

### **REDUCTION OF INFANT MORTALITY COMMISSION**

The Commission has the following duties:

- (1) advise the governor on measures necessary to reduce current rate of infant mortality and morbidity;

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- (2) assess existing programs concerning the health of women and infants during their first year of life including prenatal care, whether such programs be public or private. A principle goal of this assessment shall be the elimination of duplication and gaps in establishing effective and efficient delivery of services;
- (3) facilitate coordination of existing or proposed state and local programs relating to prenatal care and reduction of infant mortality and morbidity;
- (4) determine whether such existing programs above are in need of assistance in carrying out their purpose and to determine whether such programs in need of assistance would benefit from such assistance as the Commission thru its association with any private, non-profit corporation working closely with the Commission; and
- (5) promote programs among businesses and industries within the state which if implemented and utilized by employees would have a beneficial effect upon maternal and infant health.

### **COUNCIL ON SICKLE CELL SYNDROME AND RELATED DISORDERS**

This council consists of a chairperson and 14 other members appointed by the Governor. The council shall advise the Department and the Commission for Health Services on the needs of persons with sickle cell syndrome, and shall make recommendations to meet these needs. (See 130A-130 thru 130A-131.2.)

All other Commission functions for this Division are vested in the Commission for Health Services.

**OFFICE OF HEALTH EDUCATION**  
Bath Building, Suite 206  
306 N. Wilmington Street  
P. O. Box 27687  
Raleigh, N. C. 27611-7687  
(919) 733-1537 4038

The Office is responsible for directing the development of health education resources and applying health education methods and techniques to all areas of public health problems and services -- mainly through the work of local health departments statewide.

### **ORGANIZATION**

**Health Education Consultants Unit.** This is a group of health education specialists working from DEHNR's regional offices to build the capacity of local health departments in a region, in planning and implementing high quality health education programs aiming at helping citizens to improve and maintain good health through their own decisions, choices and actions, including the decisions of utilizing preventive health services.

**Health Education Audiovisual Production Unit.** The goal of this unit is to plan and produce such educational resources as videos and sound, slide programs not available from national educational media, in support of local health education services in North Carolina.

**Health Education Graphics Unit.** This unit's goal is to help design and produce printed educational materials such as brochures, pamphlets, posters, transparencies, and slides which support local public health efforts to educate clients and communities.

**Health Education Film Center.** This is a health film library with a large collection of health films (16 mm films, videos, sound slide tapes, etc.) for distribution statewide to organizations and institutions involved in educating about health. The Center distributes about 20,000 films each year -- to schools, health departments, hospitals, colleges, civic groups, and health care providers to help in enhancing their educational activities.

Rule-making authority for this Division is vested in the Commission for Health Services.

### **POWERS AND DUTIES OF THE COMMISSION FOR HEALTH SERVICES**

The Commission for Health Services is the rule-making body for public health programs created and administered under Chapter 130A of the North Carolina General Statutes. The Commission consists of twelve members, four of whom are elected by the North Carolina Medical Society and eight of whom are appointed by the Governor. The Governor's appointments include a licensed pharmacist, a registered engineer, a licensed veterinarian, a licensed optometrist, a licensed dentist, a registered nurse, and two members-at-large representing the general public. The Commission meets at least quarterly.

The Commission for Health Services adopts rules covering a broad spectrum of public health

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concerns. The following is a partial list of public health issues which fall under the Commission's authority:

- Communicable Disease Control, Including Immunization Requirements and Control Measures for AIDS and HIV Infection
- Adolescent Pregnancy Prevention Projects
- Sickle Cell Program
- Children's Special Health Services Program
- Home Health Services Funds
- Restaurant Sanitation Standards
- Sewage Collection, Treatment, and Disposal
- Standards for Public Water Supply Systems
- Hazardous Waste Management
- Solid Waste Management
- Mandated Services for Local Health Departments
- State Cancer Registry

### **NATURAL RESOURCES DIVISIONS**

#### **DIVISION OF FOREST RESOURCES**

P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-2162

The Division of Forest Resources' primary purpose is to ensure adequate and quality forest resources for the state to meet present and future needs. The processes used to accomplish this involve management of existing resources, development and establishment of new and better quality forests and protection of these resources.

The primary emphasis in carrying out the programs involved in these objectives is directed at the state's more than 330,000 private forest landowners who own the majority of the forestland.

Specific activities the Division is involved with are forest management assistance to private landowners, reforestation services, forest fire pre-

vention and suppression, and insect and disease control programs. Other activities are operation of tree seedling nurseries, long range forestry planning and technical development, water quality controls, urban forestry assistance, training and support to volunteer fire departments and forestry education.

To summarize, the Division has an active role in planning and carrying out all activities related to maintaining, protecting and improving the forest resources of the state. To accomplish this role, the Division is organized statewide as follows:

- Director's Office (Raleigh)
- Sections of Administrative Services, Forest Protection, and Forest Management/ Forest Development (Raleigh)
- 3 Regional Offices (Asheville, Jordan Lake, and Kinston)
  - 13 District Offices (Asheville, Lenoir, Rockingham, New Bern, Rocky Mount, Fayetteville, Elizabeth City, Whiteville, Sylva, Lexington, Hillsborough, Mount Holly, Fairfield)

### **ORGANIZATION**

**Fire Control.** The primary objective of the program is to prevent and minimize wildfire damage in the state. The program provides leadership and assumes primary responsibility for preventing and controlling forest fires on more than eighteen million acres in the state. North Carolina averages approximately 5000 wildfires annually with many areas in the state subject to large, disastrous fires. Close coordination with forest industries, rural fire departments, the Division of Emergency Management and numerous other concerns is an essential part of this program. This program also provides training support to volunteer fire departments.

**Forest Management.** The objective of this program is to ensure adequate forest resources to meet the current and future needs of the state. This program provides professional and technical management assistance available to all North Carolina forest landowners which involves a detailed examination of the woodlands including the determination of the types, quality and quantity of trees; age, vigor, and general growing conditions of the trees; and general overall situation of the resources. A written management plan recommending, for instance, reforestation

## **STATEMENTS OF ORGANIZATION**

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plans, water quality and erosion control, intermediate or final harvesting, prescribed burning and various other forest practices is prepared for the landowner. Information is also provided on several cost sharing programs available for reforestation. The Division has developed an interagency program which emphasizes total management of all forest resources including wildlife, aesthetics, recreation, soil and water, and timber. The Forest Stewardship program is available to all landowners of the state.

Pest Control. The objective of this program is to minimize loss of resources to forest pests and disease. The program identifies and takes control actions as warranted on endemic forest pest and disease problems in the state, and also works closely with other agencies in developing improved means to lessen damages from these activities.

Urban and Community Forestry. The goal of Urban and Community Forestry for North Carolina is to improve the quality of life, (environmentally, economically, and aesthetically) in urban areas through technical assistance and services to towns in developing and carrying out multi-year management plans for urban vegetation. Emphasis is on both extension of services to a growing number of urban areas, and increasing the intensity of service to those areas with more aggressive programs. Service is on a continuing basis to all areas that maintain an active program. The Division has recently become responsible for administering the America The Beautiful and Small Business Administration Tree Planting Programs. These programs provide federal funds to foster urban forestry planning and tree planting on public lands.

Nursery and Tree Improvement. This program provides adequate, high quality seedlings to meet the reforestation and Christmas tree production needs of the state. The Tree Improvement Program produces and provides genetically improved seeds to the Nursery Program which produces the seedlings for sale to the public. The production of 30 to 35 million seedlings per year occurs at three nurseries and one greenhouse.

Educational State Forests. The purpose of this program is to make N. C. citizens more aware of the importance of forestry by means of programs and demonstrations at several state forests. These forests are located at Clayton, near Lenoir, Elizabethtown, near Wilkesboro and Hendersonville. Programs are provided annually to more than 50,000 school children with total visitation close to 100,000 people.

Forestry BMP's. The Division has responsibility for monitoring and enforcing the use of Best Management Practices on all forestry operations in the state. This program requires that all logging and other activities are done without damage to water quality.

### **FORESTRY ADVISORY COUNCIL**

The Forestry Advisory Council advises the Department of Environment, Health, and Natural Resources Secretary concerning conservation and development of private and public forests in the state. The Council also makes studies directed by the Secretary, conducts a continuing review of Division programs, and participates in evaluations and in hearings related to the public interest in forestry.

### **SOUTHEASTERN FOREST FIRE COMPACT ADVISORY COMMITTEE**

The Southeastern Forest Fire Compact is authorized by the Legislature and its purpose is to promote effective prevention and control of forest fires in the Southeastern Region of the United States. The Advisory Committee is composed of legislators and forest industry representatives and meets periodically with the State Foresters of member states to promote adequate forest fire protection measures throughout the Southeastern Region.

### **DIVISION OF MARINE FISHERIES**

Post Office Box 769  
Morehead City, NC 28557-0769  
(919) 726-7021

The Division is responsible, under direction of the Marine Fisheries Commission and the Secretary, Department of Environment, Health, and Natural Resources, for stewardship of the marine and estuarine resources of the State of North Carolina. As such it is responsible for the maintenance, preservation, protection and development of all marine and estuarine fisheries resources. This includes the promulgation of rules governing coastal fisheries, and their enforcement. It includes scientific endeavors leading to the development of information upon which regulatory and developmental decisions will be based. It also includes developmental activities intended to improve the cultivation, harvesting and marketing of shell and finfish.

### **ORGANIZATION**

## ***STATEMENTS OF ORGANIZATION***

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The Division is organized into four programs: Administration, Research, Operations, and Development.

Administration. Responsible for personnel, budget, physical plant management, licensing, public information and submerged lands claim activities.

Research. Responsible for planning, processing, analyzing, and publishing fisheries management data. Coordinates federal funding and project management.

Operations. Headquartered at Morhead City with offices in Elizabeth City, Manteo, Washington, and Wilmington, this program is responsible for fisheries management and law enforcement activities.

Development Program. Responsible for shellfish development, shellfish leasing and artificial reef construction and management.

### **MARINE FISHERIES COMMISSION**

This 15 member Commission is appointed by the Governor and is responsible for management, restoration, development, cultivation, conservation protection and regulation of the marine and estuarine resources of the State (G.S. 143B-289.3); and to adopt rules to be followed in the management, protection, preservation and enhancement thereof (G.S. 143B-289.4); all such rules to be enforced by the Department and Division [143B-289.4(5)].

**NORTH CAROLINA ZOOLOGICAL PARK**  
Route 4, Box 83  
Asheboro, NC 27203  
(919) 879-7100

Office of the Director. Responsible for the overall policy, management, and development of the North Carolina Zoological Park. Reports to the Assistant Secretary of Natural Resources. Works through the North Carolina Zoological Park Council on matters delegated to their authority and keeps them informed on all zoo related matters. Maintains close working relationship with North Carolina Zoological Society, AAZPA, and other Zoological/ Conservation organizations worldwide.

Executive Secretary. Provides all administrative support to Office of the Director. Responsible for liaison to all council, Committees, Boards, and Societies. Administrative Procedures Act

Coordinator. State Regulations Retention Coordinator, Zoo lead secretary.

Deputy Director's Office. Responsible for management and consolidation of the various services of the Park. Oversees operation of the Zoo except for functions assigned to the General Curator's Office. Directly plans, coordinates, and manages the activities of Management Services, Facilities, Marketing, Exhibit/Graphics, and Education Divisions. Develops objectives and strategies to meet Zoo goals, master plan expansion and other issues. Serves as Acting Director in the absence of the Director.

General Curator's Office. Responsible for overall management of the biological (Zoological/Botanical) collections, research, and veterinary medicine programs. Oversees the curatorial programs, develops and conducts research and propagation programs, initiates and participates in multi-institution conservation programs and other related wildlife issues. Plans, coordinates, and manages the activities of Animal Husbandry, Veterinary Medical Services and Horticulture Divisions. Chairs the NCZP/UNCG Research Coordinating Committee. Professional liaison with AAZPA, ISIS, SSP programs and international zoological organizations. Principal biological authority of the Zoo.

Veterinary Medical Services. Responsible for the health and welfare of the Animal Collections. Operates the Hanes Medical Center. Initiates and conducts medical research projects and collaborates with institutions worldwide in such activities. Liaison with AAZV, North Carolina School of Veterinary Medicine.

Animal Husbandry. Provides direct care to the Animal Collection. Responsible for feeding, housing, hygiene, containment, daily health, record keeping, preventive medical practices, and safety of all specimens in the collection. Maintains and operates animal exhibits, night quarters, and related facilities.

Horticulture. Responsible for the planning, development, and maintenance of the botanic collections, introduced and indigenous. Introduces plant material to create or simulate natural environments. Develops research and educational projects, initiates and participates in multi-institution conservation programs and other related botanical issues. Professional liaison with AZH and other national/international botanical organizations.

## **STATEMENTS OF ORGANIZATION**

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Personnel. Responsible for all personnel administration matters including recruitment, hiring, employee relations, benefit programs assistance, disciplinary actions, temporary employee administration, time sheets, WPPR administration, all applicable forms, reports and files. Develops and implements staff development and training plan including orientation, skills training and supervisory training.

Management Services. Responsible for all visitor service revenue activities. Manages and operates all zoo ranger, financial management, purchasing, supply, budgeting, and accounting functions of the zoo. Responsible for contract and grant administration, ADP, and related administrative services.

Facilities. Responsible for coordination and development of all Park construction. Single point of contact for architects and contractors. Manages all construction/maintenance contracts. Responsible for the maintenance and accounting of all physical property and equipment (less animals/plants) belonging to the zoo.

Marketing. Responsible for increasing positive awareness and attendance. Develops and administers marketing strategies. Disseminates information to media, government agencies, tourism entities and general public. Approves all media releases involving the zoo, including those issued by the Zoological Society. Plans and coordinates special events, joint promotions, and publicity opportunities. Solicits and coordinates group visits. Responsible for informational brochures, speaking engagements, and displays. Public relations spokesperson for the zoo.

Exhibit and Graphics. Responsible for the design, construction, and maintenance of exhibits and natural habitats. Manages the graphics program, provides graphic services to other divisions, maintains graphic standards, and maintenance of graphic elements in use.

Education. Responsible for the development and presentation of all education programs. Conducts research, workshops, classes, and related activities concerning the zoo and conservation. Responsible for the scientific technical accuracy of all information relating to the animal plant collection as used in graphics, brochures, media releases, or other outlets. Operates volunteer programs (docents, neonatal care, horticulture), Smart Carts, Discovery Room, and other educational activities/events initiated by the zoo. Liaison to the N.C. school system for all educational matters.

### **NORTH CAROLINA ZOOLOGICAL PARK COUNCIL**

This fifteen-member council is appointed by the Governor to oversee the development and operation of the Zoological Park (G.S. 143B-335; 143-177.3). Responsibilities include:

- 1 - Advise on the basic concepts of and for the Park, approve conceptual plans for the Park and its buildings.
- 2 - Advise on the construction, furnishings, equipment and operations of the Park.
- 3 - Establish and set admission fees with the approval of the Secretary, EHNR.
- 4 - Recommend programs to promote public appreciation of the Park.
- 5 - Disseminate information on animals and the Park as deemed necessary.
- 6 - Develop effective public support for the Park through whatever means are desirable and necessary.
- 7 - Solicit financial and material support from various private sources within and without the State.
- 8 - Advise the Secretary on any other matters referred to it.

### **DIVISION OF PARKS AND RECREATION**

P.O. Box 27687  
Raleigh, NC 27611-7687  
(919) 733-4181

The North Carolina Division of Parks and Recreation is responsible for planning for a statewide system of park and recreation resources. The Division administers the State Parks System which includes state parks, state natural areas, state recreation areas, state trails, state lakes, and natural and scenic rivers. The system functions to preserve unique examples of archaeologic, biologic, geologic, scenic, and recreational resources. The Division is also responsible for the Land and Water Conservation Fund Program, a federal matching-fund program which supports outdoor recreation, conservation, and statewide recreation planning. Recreation consulting services are provided through a cooperative agreement with North Carolina State University. The Division is organized into four sections.

## **STATEMENTS OF ORGANIZATION**

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### **ORGANIZATION**

**Design and Development Section.** The Design and Development Section is responsible for managing the Division's capital improvement projects, land acquisition program, and resource management program. The section maintains an inventory of repair and renovation needs in the State Parks System.

**Operations Section.** The Operations Section is responsible for efficient management of the State Parks System. On-site park superintendents serve to manage park units. Section responsibilities include State Parks Systems operation, interpretation and education, visitor protection and safety, natural resource management, concessions management, state trails, and volunteer program administration.

**Consulting Services Section.** The Consulting Services Section, through a contract with North Carolina State University, provides advisory services, planning assistance, and training programs to public, private and commercial agencies and organizations. The section conducts the field administration of the Land and Water Conservation Fund by providing information, processing applications, performing inspections, and resolving conversions. The unit also conducts special projects, such as the "Take Pride in America" program--a nationwide effort to promote public land stewardship.

**Planning and Assessment Section.** The Planning and Assessment Section prepares system-wide plans and general management plans for the State Parks System. The section is responsible for maintaining the State Comprehensive Outdoor Recreation Plan, conducting special studies, and preparing preliminary and feasibility studies of river segments nominated for inclusion into the State Natural and Scenic River System. The Natural Heritage Program, a part of the section, serves to identify, inventory, and provide protection for rare and endangered plant and animal species, special wildlife habitats, sensitive wetlands, and geologic landforms.

### **PARKS AND RECREATION COUNCIL**

The Parks and Recreation Council functions to advise the Department on the promotion, development, and administration of the State Parks System. The Council works to educate and inform the citizens of the State on the needs and opportunities of the State Parks System. The Council also advises the Department with respect to the quality and quantity of the total recreation

services provided to the citizens of the State (G.S. 143B-311 through 313).

### **RECREATION AND NATURAL HERITAGE TRUST FUND BOARD OF TRUSTEES**

The Board administers the Natural Heritage Trust Fund which was established to provide support for acquisition and management of significant natural areas (G.S. 113-77.6 through 77.9).

### **NORTH CAROLINA TRAILS COMMITTEE**

The Committee coordinates trail development among state and federal agencies, and local governments and advises the Department on all matters pertaining to trails. The Committee reviews and recommends trails for the designation as State Trails including segments of the Mountains-to-Sea Trail (G.S. 143B-88; 333; and 334).

### **DIVISION OF SOIL AND WATER CONSERVATION**

512 North Salisbury Street  
P. O. Box 27687  
Raleigh, NC 27611-7687  
919/733-2302

The Division of Soil and Water Conservation administers a comprehensive, statewide program for conserving our soil and water resources and operates under the Department of Environment, Health, and Natural Resources. The Division provides staff, clerical assistance, and policy implementation for the N.C. Soil and Water Conservation Commission. It also helps the 94 local Soil and Water Conservation Districts and their State Association in their campaign for soil and water conservation.

### **ORGANIZATION**

**District Program Section.** The District Program Section coordinates the activities of the 94 local soil and water conservation districts across the state and serves as staff for the N.C. Association of Soil and Water Conservation Districts, the 94 Districts' member association.

**N.C. Agriculture Nonpoint Source Pollution Control Section.** The N.C. Agriculture Nonpoint Source Pollution Control Section, commonly known as the NPS Section is responsible for encouraging the adoption of Best Management Practices (BMP's) to control agricultural nonpoint source pollution. This Section administers the North Carolina Agriculture Cost Share Program and other nonpoint source pollution

## **STATEMENTS OF ORGANIZATION**

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control programs addressing water quality protection.

Watershed Planning Section. The Watershed Planning Section supports the planning and implementation of PL 566 Small Watershed Projects (250,000 acres or less) under USDA-Soil Conservation Service Authority. The projects address community-wide natural resource problems such as flooding, erosion, and water quality.

Soils Section. The Soils Section supports the proper use and management of soil resources through mapping and interpretive services. The Section prepares county soil survey reports in cooperation with the Soil Conservation Service and provides technical assistance to soil and water conservation districts and other agencies.

Wetlands Inventory Section. The Wetlands Inventory Section provides quality control for the National Wetlands Inventory underway in North Carolina by the U.S. Fish and Wildlife Service, and distributes National Wetlands Inventory maps and other wetlands-related materials that pertain to North Carolina.

### **NORTH CAROLINA SOIL AND WATER CONSERVATION COMMISSION**

G.S. 143B-294 states "there is hereby created the Soil and Water Conservation Commission of the Department of Natural Resources and Community Development with the power and duty to adopt rules and regulations to be followed in the development and implementation of a soil and water conservation program."

**NORTH CAROLINA WILDLIFE RESOURCES COMMISSION**  
512 North Salisbury Street  
Raleigh, North Carolina 27604-1188  
(919) 733-3391

The North Carolina Wildlife Resources Commission is a separate State agency created under Article 24 of Chapter 143 of the General Statutes. The Wildlife Resources Commission is responsible for the management, restoration, development, cultivation, conservation, protection and regulation of the wildlife resources of the State. The Wildlife Resources Commission is also charged with the responsibility of administering and enforcing the laws relating to boating and water safety, game and freshwater fishes and other wildlife resources.

### **NORTH CAROLINA DEPARTMENT OF PUBLIC EDUCATION**

The Department of Public Education consists of the policy-making State Board of Education and the Department of Public Instruction, which is headed by the Superintendent of Public Instruction. The Superintendent is the secretary and chief administrative officer of the State Board of Education.

The Department of Public Instruction is organized in seven areas - Superintendent's Office, Deputy Superintendent's Office, Program Services, Personnel Services, Research and Development Services, Auxillary Services, and Financial Services.

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the State Board of Education shall address the petition to:

Superintendent of Public Instruction  
116 West Edenton Street  
Raleigh, NC 27603-1712

### **NORTH CAROLINA DEPARTMENT OF THE SECRETARY OF STATE**

The Secretary of State is a constitutional officer elected to a four-year term by the citizens of North Carolina at the same time as other elected executive officials. He heads the Department of the Secretary of State which was created by the Executive Organization Act of 1971. The Secretary of State is a member of the Council of State and is an ex-officio member of the Local Government Commission and Capital Planning Commission. He also serves on the Information Technology Commission (formerly the Computer Commission) and is chairman of the Constitutional Amendments Publications Committee.

By statute he receives all ratified bills of the General Assembly as well as the original journals of the state Senate and state House of Representatives.

The Secretary of State is empowered by law to administer oaths to any public official of whom an oath is required. He is frequently called upon to administer oaths to officers of the Highway Patrol, judges and other elected officials.

The Secretary of State is required to faithfully perform the duties assigned him by the Constitution and laws of North Carolina. The Department of the Secretary of State, under the direction of the Secretary of State, is charged

## **STATEMENTS OF ORGANIZATION**

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with maintaining certain records pertaining to state and local government actions and the commercial activities of private business. This duty is imposed by many widely distributed sections of the General Statutes of North Carolina and involves varying degrees of responsibility from reviewing of documents for conformity to statutory requirements prior to filing to enforcement authority. The Department has responsibility under approximately fifty separate statutes which may be divided into categories dealing with custodianship of the Constitution and laws of the State, administrative commercial law, the elective process, the General Assembly and public information.

### **General Administration Division**

The General Administration Division, under the supervision of the Secretary of State and his chief deputy, is responsible for all administrative and management functions including budget, personnel, planning and coordination. In addition, the Division handles miscellaneous statutory duties and responsibilities not assigned to one of the other departmental divisions. Included among these are the registration of lobbyists, the registration of trademarks, and the recording of municipal annexation ordinances.

### **Corporations Division**

The Corporations Division is responsible for filing corporation and limited partnership documents as required by the laws of North Carolina. The various corporation and limited partnership laws are enabling statutes under which these organizations are created. The responsibility of the Secretary of State is to ensure uniform compliance with such statutes, record information required as a public record, prevent duplication of corporate names and furnish information to the public.

The division is responsible for maintaining records on approximately 150,000 current corporations and limited partnerships. The Information Services Group handles more than 700 inquiries daily regarding the records and the unit processes more than 50,000 documents each year.

### **Notary Public Division**

The function of issuing commissions to notaries public was transferred to the Department of the Secretary of State from the Office of the Governor under the Executive Organization Act of 1971. The primary purpose of the Notary Public

Division is to provide a means for establishing the authenticity of signatures. This is accomplished through the issuing of commissions to notaries public in all of the counties in North Carolina.

### **Publications Division**

The Publications Division is primarily responsible for the compiling and publishing of information which will be useful to the General Assembly, to state agencies, and to the people of North Carolina. In addition, it is also responsible for maintaining for public inspection, certain records for which the Secretary of State is custodian. The division publishes such useful items as the *Directory of State and County Officials of North Carolina*, the *North Carolina Manual*, and other smaller publications.

Within the Publications Division is the Land Grants Section where the historical land grants for North Carolina dating from the 1660's are found. Also in this section are the original ratified acts of the General Assemblies of North Carolina, as well as primary and general election voting results for recent elections. In an effort to preserve and protect these valuable records, the Publications Division is working with the state Archives to microfilm the land grant records and transfer them to the state Archives for permanent keeping.

### **The Securities Division**

The Securities Division is responsible for administering the state's securities laws. These "blue sky" laws, as they are known, are provided for in Chapters 78A, 78B, 78C, and 78D of the General Statutes. The intent of these laws is to protect the investing public by requiring a satisfactory investigation of both the people who offer securities and of the securities themselves. The laws provide for significant investigatory powers and for due process in any administrative, civil or criminal action. The Securities Division is the appropriate state agency for addressing investor complaints concerning securities brokers, stockbrokers, investment advisors, or commodity dealers, and for inquiring about offerings of particular securities or commodities. Although the division cannot represent an investor in a claim for monetary damages, the staff can investigate alleged violations and suspend or revoke a license, issue stop orders against securities offerings, issue cease and desist orders, seek court ordered injunctions, or refer the matter to the appropriate district attorney for criminal prosecution.

## **STATEMENTS OF ORGANIZATION**

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The Secretary of State, as the state's securities administrator, is a member of the North American Securities Administrators Association (NASAA). Through this organization the division's staff assists in the adoption of nationwide, uniform policies on securities. The Division works with other state securities agencies, various federal agencies (including the Securities and Exchange Commission), and with various industry groups such as the National Association of Securities Dealers.

### **Uniform Commercial Code Division**

The Uniform Commercial Code Division is required under Article 9 of the Code to provide a method of giving notice of security interests in personal property to interested third parties. The method adopted is a "notice" filing system. Recorded information in the UCC Division is public record.

The Secretary of State, as central filing officer, receives and files financing statements and related "notice" statements and furnishes information to the public regarding such statements.

It is the responsibility of the secured party to file a statement showing the name and address of the debtor, the name and address of the secured party and a brief description of the collateral. These documents are indexed by the debtor's name. A search of the records on a particular debtor will produce a list of all active creditors who have filed statements with this office. Interested parties are given information sufficient to contact the creditors for further information regarding the lien.

The Secretary of State is also central filing officer for federal tax liens which are handled in the same manner as UCC filings.

### **The Business License Information Office**

The newest addition to the Department of the Secretary of State is the Business License Information Office. Created in 1987 by the General Assembly, this office grew out of the recognition of the business community's need for relief from an often confusing licensing system, and the recognition that the time and energy of prospective business owners could be better spent in other areas. There are hundreds of business related licenses and permits issued by the State of North Carolina with hundreds of applications and related forms to be completed to obtain them. This experience can be very frustrating.

The purpose of the Business License Information Office is:

- (1) to offer new and existing businesses an accessible central information source;
- (2) to assist potential business owners to secure the necessary state issued licenses, permits, and/or other authorizations in order to operate a business in North Carolina;
- (3) to monitor the license application review process; and
- (4) to act as an advocate for regulatory reform.

Assistance is available to all businesses regardless of size, type or location. There are no fees for the services provided and assistance is available by telephoning or by visiting the office. A toll free telephone number has been established for the convenience of the users. The number is 1-800-228-8443.

A directory, the *North Carolina State Directory of Business Licenses and Permits* has been published by the office. This publication contains up-to-date information on over 600 state required licenses and permits.

### **MAILING ADDRESSES:**

The mailing address for the General Administration Division, the Corporations Division, the Notary Public Division, the Publications Division, and the Uniform Commercial Code Division of the Department of the Secretary of State:

(name of division)  
Department of the Secretary of State  
Room 302  
Legislative Office Building  
300 N. Salisbury St.  
Raleigh, N.C. 27603-0509

The mailing address for the Securities Division of the Department of the Secretary of State is:

Securities Division  
Department of the Secretary of State  
Room 404  
Legislative Office Building  
300 N. Salisbury St.  
Raleigh, N.C. 27603-0509

The mailing address for the Business License Information Office of the Department of the Secretary of State is:

Business License Information Office  
Department of the Secretary of State

## **STATEMENTS OF ORGANIZATION**

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301 W. Jones St.  
Raleigh, N.C. 27603

Telephone numbers for the divisions of the Department of the Secretary of State are:

General Administration Division  
(919) 733-4161

Corporations Division  
(919) 733-4201

Notary Public Division  
(919) 733-3406

Publications Division  
(919) 733-7355

Securities Division  
(919) 733-3924

Uniform Commercial Code Division  
(919) 733-4205

Business License Information Office  
(919) 733-0641

### **NORTH CAROLINA STATE BOARD OF ARCHITECTURE**

The North Carolina Board of Architecture is charged with the licensing and regulation of the practice of architecture in the State of North Carolina. For submissions, requests or further information, please contact the Executive Director, Cynthia B. Skidmore, 501 N. Blount Street, Raleigh, North Carolina 27604, telephone (919) 733-9544.

### **NORTH CAROLINA AUCTIONEER LICENSING BOARD**

The Auctioneer Licensing Board is responsible for the administration and enforcement of the Auctioneers Law, G.S. 85B, which establishes specific standards of conduct for auctioneers and auction firms that serve to protect the public from incompetent or unqualified persons engaging in auction activities, and from deceitful practices, willful misrepresentations or fraudulent and dishonest dealings; affords a means of redress of grievances to any person suffering damage, and provides a means of monetary restitution for loss suffered.

The Auctioneers Law stipulates that there shall be a five-member Commission, appointed by the Governor. By law, three members are from nominations submitted to the Governor by the

Auctioneers Association of North Carolina. At least three members must be experienced licensed auctioneers; one member is appointed to represent the public at large, and cannot be licensed as an auctioneer.

It is the responsibility of the Board to license auctioneers, apprentice auctioneers, and auction firms and to see that the qualifications and activities of those engaged in auctioneering activities are in accord with the law, and in the best interest of the public. The Board is not a board of arbitration and has no jurisdiction to settle disputes between parties concerning such matters of contract as the rate of commissions, the division of commissions, pay of assistants and similar matters.

The Commission may upon its own motion or upon the written complaint of any person, provided the complaint and any evidence presented with it establishes a *prima facie* case, hold a hearing and investigate the actions of any licensee, and has the power to suspend or revoke any license issued. The Commission may in its own name seek injunctive relief to restrain any violation or anticipated violation of the Auctioneers Law and utilizes the services of the Attorney General's Office in enforcing the provisions of G.S. 85B.

The Commission holds monthly meetings; receives and acts upon license applications; adopts rules and regulations; investigates complaints; holds administrative hearings as needed; suspends or revokes licenses when warranted; sponsors and underwrites educational projects for the benefit of licensees, and provides recovery and guaranty protection through the Auctioneer Recovery Fund.

The Board's operational activities are supported totally by license fees collected from those in the auction profession and deposited with the State Treasurer: no funds are appropriated for the use of this agency. The Board employs a full-time staff which administers examinations, issues and renews licenses, publishes an annual directory and biannual newsletters, and is responsible for the daily functioning of the office. Complaints are investigated with the assistance of a contractual investigative firm.

The administrative offices of the Auctioneer Licensing Board are located at:

3509 Haworth Drive, Suite 306  
Raleigh, North Carolina 27609-7276  
Telephone: (919) 733-2182

## **STATEMENTS OF ORGANIZATION**

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Office hours are 8:30 a.m. until 5:00 p.m., Monday through Friday, except holidays. Inquires should be directed to the Executive Director or Administrative Assistant at the above location.

### **NORTH CAROLINA STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS**

The North Carolina State Board of Certified Public Accountant Examiners is an independent State agency and an occupational licensing board authorized by Chapter 93 of the N. C. General Statutes.

#### **BOARD RESPONSIBILITIES**

The Board has these primary responsibilities:

- (1) to grant CPA certificates to those who have met legal requirements including age, citizenship, education, experience and good moral character;
- (2) to register CPA firms;
- (3) to annually renew CPA certificates and firm registrations;
- (4) to administer the semi-annual CPA Examination;
- (5) to administer the CPE compliance program;
- (6) to adopt rules of professional ethics and conduct to be observed by CPAs in this State;
- (7) to conduct administrative hearings with respect to State statutes and Board rules; and
- (8) to administer other provisions of G.S. 93.

#### **BOARD COMPOSITION**

The Board is composed of five persons who are CPAs and two persons who are not CPAs who represent the public at large. The Board's staff includes an Executive Director, ten other full-time staff members and several part-time student interns.

#### **USE OF CPA TITLE RESTRICTED BY LAW**

North Carolina accountancy law is unusual in that anyone can practice public accountancy by

paying a minimal privilege license fee. However, anyone not licensed by the North Carolina Board of CPA Examiners is restricted to only the title "accountant". Even though a person is a CPA in another state and holds a position in such fields as industry, government or education, a North Carolina certificate issued by the Board must be obtained in order to use the CPA title while in this State.

#### **INFORMATION**

You may obtain information from and make submissions or requests to the North Carolina State Board of Certified Public Accountant Examiners in person at 1101 Oberlin Road, Suite 104, Raleigh, North Carolina; by mail at Post Office Box 12827, Raleigh, NC 27605-2827; and by telephone at (919) 733-4222.

### **NORTH CAROLINA BOARD OF CHIROPRACTIC EXAMINERS**

The North Carolina Board of Chiropractic Examiners is an occupational licensing agency which regulates the practice of Chiropractic by (1) determining whether applicants have satisfied the statutory requirements to be admitted to practice, and (2) enforcing the statutory provisions governing the practice of Chiropractic.

Any interested party may obtain information and make submissions or requests by contacting the Board in writing at the following address:

N.C. Board of Chiropractic Examiners  
c/o Mrs. Carol Hall, Executive Secretary  
P.O. Box 312  
Concord, N.C. 28025

### **NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS**

The North Carolina Licensing Board for General Contractors is located at 3509 Haworth Drive, Suite 302, Raleigh, North Carolina. Its mailing address is Post Office Box 17187, Raleigh, North Carolina 27619. The telephone number is (919) 781-8771. Mark D. Selph is Secretary-Treasurer of the Board. Requests for information or similar inquiries should be made to the Board's office. The members of the Board are: Arthur C. Flood, Chairman; Richard T. Howard, Vice-Chairman; Nathaniel E. Clement; Robert A. Harvell; D. Bruce Armstrong; Douglas A. Lopp and Dean B. McClatchey.

### **NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS**

## **STATEMENTS OF ORGANIZATION**

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**Goal:** The goal of the State Board is to assure the consumer of clean and sanitary salons and that the services offered are not damaging to the consumer.

The purpose of this Board is to license all people employed as professionals in Cosmetic Art schools, colleges and salons in North Carolina and to assure they have met all standards and requirements to have a license.

The Board consists of four members appointed by the Governor, one by the N. C. House Speaker, and one appointed by the Lt. Governor. The Board Members meet to set policy and standards for Cosmetic Art in North Carolina.

Board Members are: Phil Shehdan, Alma Tilghman, Carol Richardson, Benjaminine Carpenter, Joyce Mason, and Patricia Tippett.

### **Objectives:**

1. To increase accessibility of training in the area of cosmetology.
2. To increase the number of licensed cosmetologists, manicurists, schools, colleges, and salons.
3. To reduce complaints filed against schools, salons, cosmetologists, and manicurists.

Office Hours are 8-5:00 P.M., and Telephone number is (919) 850-2793. The Executive Secretary is Vicky Rothrock Goudie.

N.C. State Board of Cosmetic Art Examiners  
Grove Towers, Fifth Floor  
1110 Navaho Drive  
Raleigh, North Carolina 27609

## **NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS**

The North Carolina State Board of Dental Examiners was created by Chapter 90, Article 2, of the North Carolina General Statutes as the state agency responsible for regulating the practice of dentistry in North Carolina. The Board is also charged with regulating the practice of dental hygiene under Article 16 of the same Chapter.

The Board of Dental Examiners maintains administrative offices in Raleigh, North Carolina, at 3716 National Drive, Suite 221, of the Koger Executive Center. The Board's mailing address is Post Office Box 32270, Raleigh, North

Carolina 27622. The telephone number is (919) 781-4901, and Board office hours are 8:30 a.m. to 5:00 p.m. Monday through Friday. Christine H. Lockwood is the Executive Secretary of the Board. Requests for information or similar inquiries should be made to the Board's offices.

Members of the Board include six dentists, one dental hygienist and one member of the public. Dentist-members are elected by vote of all licensed dentists, the hygienist-member is elected by vote of all licensed hygienists and the public member is appointed by the Governor. Current members of the Board are: Dr. Bettie R. McKaig, President; Dr. Kent N. Tucker, Secretary-Treasurer; Dr. Stanley L. Fleming; Dr. Carlton V. Winter; Dr. James C. Elliott Jr.; Dr. E. Smith Jewel; Ms. Nancy A. St. Onge, R.D.H.; and Ms. Marie S. Moore, Consumer Member.

## **NORTH CAROLINA STATE BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS**

The State Board of Examiners of Electrical Contractors was created by Article 4, Chapter 87, of the General Statutes. The Board consists of seven members as follows: one member from the North Carolina Department of Insurance designated by the Commissioner of Insurance; one member who is a representative of the North Carolina Association of Electrical Contractors designated by the governing body of that organization; and five members appointed by the Governor: one from the faculty of the Greater University of North Carolina who teaches or does research in the field of electrical engineering, one who is serving as a chief electrical inspector of a municipality or county in North Carolina, one who has satisfied the requirements for a license classified under G.S. 87-43.3 and who represents a sole proprietorship, partnership or corporation located in North Carolina which is actively engaged in the business of electrical contracting, and two who have no ties with the construction industry and who represent the interest of the public at large.

The Board meets several times a year to transact business and it administers the written qualifying examinations to applicants for a license twice a year in March and September.

Information may be obtained from and submissions and requests may be made at the Board's office located at 1200 Front Street, Suite 105, Raleigh, North Carolina 27609, Telephone (919) 733-9042.

## **STATEMENTS OF ORGANIZATION**

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### **BOARD OF REGISTRATION FOR FORESTERS**

The State Board of Registration for Foresters has the statutory duty and authority to administer a voluntary program of registration for foresters. These rules shall govern the registration program of the Board.

All communications with the Board shall be through the secretary of the Board at the following address;

Secretary of the State Board of Registration for  
Foresters  
P. O. Box 27393  
Raleigh, North Carolina 27611.

### **NORTH CAROLINA BOARD FOR LICENSING OF GEOLOGISTS**

The North Carolina Board for Licensing of Geologists is an occupational licensing board which regulates the practice of geology by (1) determining whether applicants meet the statutory requirements for licensing, and (2) enforcing the statutory provisions governing the practice of geology. N.C.G.S. Chapter 89E sets out the statutory authority of the Board.

Any interested party may obtain information and make submissions or requests by contacting the Board at P. O. Box 27402, Raleigh, N.C. 27611 or by calling 919-781-7297.

### **NORTH CAROLINA BOARD OF LANDSCAPE ARCHITECTS**

The North Carolina Board of Landscape Architects is an occupational licensing board responsible for the profession of landscape architecture, to include administering examinations, issuing certificates of registration, issuing annual renewal of certificates of registration, and for insuring compliance with the landscape architects' law.

### **NORTH CAROLINA LANDSCAPE CONTRACTORS' REGISTRATION BOARD**

The North Carolina Landscape Contractors' Registration Board is an occupational licensing board responsible for the profession of landscape contracting, to include administering examinations, issuing certificates of registration, issuing annual renewal of certificates of registration, and for insuring compliance with the landscape contractors' law.

### **BOARD OF MEDICAL EXAMINERS OF THE STATE OF NORTH CAROLINA**

**HISTORY AND PURPOSE:** The North Carolina Board of Medical Examiners was established in 1859 by the legislature of the State of North Carolina to regulate the practice of medicine and surgery in the state. It is for that purpose that the Board of Medical Examiners exists today.

**COMPOSITION:** The current Board of Medical Examiners is composed of eight members. Seven of the members are physicians appointed by the Governor after being nominated by the North Carolina Medical Society; and one non-physician public member is also appointed by the Governor.

**MEETINGS:** Pursuant to statute, the Board meets at least annually. Currently meetings are scheduled six times a year in January, March, May, July, September, and November. Other meetings are scheduled during the year as needed to accomplish the Board's purpose.

**PUBLIC COMPLAINTS:** The Board has its greatest contact with the public in receiving complaints regarding physician behavior and competence. The public may contact the Board's office for the proper form to submit a complaint regarding practices of physicians or concerns regarding the practice of medicine in the state. The written complaint must contain the name of the physician concerned and the nature of the complaint.

**LICENSURE:** Applicants for licensure to practice medicine in the State of North Carolina may make application upon forms supplied by the Board's office. The Board is also responsible for approval of the performance of medical acts by physician assistants; and is jointly responsible with the Board of Nursing for the approval of medical acts by nurse practitioners.

Any questions not addressed herein may be addressed to the North Carolina Board of Medical Examiners at 1313 Navaho Drive, Raleigh, North Carolina 27609, telephone (919) 876-3885.

### **MIDWIFERY JOINT COMMITTEE OF THE STATE OF NORTH CAROLINA**

"Midwifery Joint Committee administers the provisions of Article 10A 'Practice of Midwifery' by the approval of nurses to practice midwifery in North Carolina and by regulation of that practice.

## **STATEMENTS OF ORGANIZATION**

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All meetings of the Midwifery Joint Committee are open to the public. Persons wishing to bring matters to the attention or consideration of the Midwifery Joint Committee may write the Midwifery Joint Committee, P.O. Box 2129, Raleigh, NC 27602."

### **NORTH CAROLINA BOARD OF MORTUARY SCIENCE**

The North Carolina Board of Mortuary Science was created by Article 13A, Chapter 90, General Statutes. The Board consists of six persons licensed by the Board and elected by licensees, plus one public member appointed by the Governor. The Board meets as often as necessary to transact its business. (It is required by law to meet at least twice a year.) It administers the examination to applicants for licensure twice a year.

Information may be obtained from the submissions and requests may be made to the Board office, located at 412 North Wilmington Street, Raleigh, NC 27601, telephone (919) 733-9380, Fax (919) 733-8271.

### **NORTH CAROLINA BOARD OF NURSING**

"The North Carolina Board of Nursing licenses registered nurses and licensed practical nurses; regulates the practice of nursing; approves educational units leading to licensure; approves nurse aide educational programs; maintains the Nurse Aide Central Registry; issues interpretations of the Nursing Practice Act; and maintains a joint subcommittee with the North Carolina Board of Medical Examiners for matters relating to the performance of medical acts of registered nurses.

All meetings of the Board, including Board committee meetings, are open to the public. Persons wishing to bring matters to the Board for its attention or consideration shall submit the request in writing no less than 30 days prior to the scheduled regular meeting. The Board office is located at 3724 National Drive, Suite 201, Raleigh, NC 27612; mailing address is P.O. Box 2129, Raleigh, NC 27602."

### **NORTH CAROLINA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS**

The N.C. State Board of Examiners for Nursing Home Administrators has the following functions and duties:

1. Develop standards for licensure of nursing home administrators.
2. Development and administration of examinations for licensure candidates.
3. Issuance of licenses as nursing home administrators.
4. Establish and implement procedures to insure that licensees comply with licensure standards.
5. Investigation of complaints relating to nursing home administrators.
6. Continuing study for the purpose of improvements in the standards for licensing.
7. Conduct and review continuing education programs for nursing home administrators.
8. Develop and implement rules and regulations.
9. Receive and disburse funds for the operation of the Board.
10. Maintain a register of all applicants for licensure and of licensed nursing home administrators.
11. Develop an administrator-in-training program to insure that nursing home administrators have adequate training and experience prior to licensure.

Location: 3701 National Drive, Suite 123, Raleigh, N.C. 27612.

Mailing Address: Same  
Telephone Number: 919/571-4164  
Contact: Jane C. Abernathy

### **NORTH CAROLINA BOARD OF OCCUPATIONAL THERAPY**

The North Carolina Board of Occupational Therapy licenses Occupational Therapists and Occupational Therapist Assistants to practice the profession of Occupational Therapy in the State of North Carolina. The Board is composed of six members appointed by the Governor for staggered terms from one to four years. The Board consists of three Occupational Therapists, one Occupational Therapist Assistant, a public member and a physician licensed to practice medicine. The Board receives applications for

## **STATEMENTS OF ORGANIZATION**

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prospective licensees, reviews the applications and if appropriate, issues licenses. It also conducts hearings with regard to licensure and with regard to the furnishing of competent occupational therapy services to the citizens of North Carolina.

The Office of the Board is located at Suite 1921, Center Plaza Building, 411 Fayetteville Street Mall, Raleigh, North Carolina. The mailing address of the Board is P.O. Box 2280, Raleigh, North Carolina 27602, and its telephone number is (919) 832-1380. The office hours of the Board are from 9:00 a.m. to 5:00 p.m. Monday through Friday.

### **NORTH CAROLINA STATE BOARD OF OPTICIANS**

The North Carolina State Board of Opticians is located at:

412 North Wilmington Street  
Raleigh, North Carolina 27601-1061

The Board consists of seven members. Any information, submissions or requests may be directed to the Board office at the address above or by calling (919) 733-9321.

### **NORTH CAROLINA STATE BOARD OF EXAMINERS IN OPTOMETRY**

The Board is established pursuant to North Carolina General Statute Section 90-116. Statutes concerning the Board are found at Sections 90-114 et. seq. Rules and regulations concerning the Board are found at 21 NCAC 42A .0001. The Board's office is located at 321 East Main Street, Post Office Drawer 609, Wallace, North Carolina 28466-0609.

Officers of the Board are:

President  
Dr. L. S. Christian  
413 West Main  
Williamston, North Carolina 27892  
(919) 792-2195 (OFFICE)  
(919) 792-3602 (HOME)

Secretary  
Dr. William B. Rafferty  
Veterans Administration Medical  
Center Eye Clinic  
1601 Brenner Avenue  
Salisbury, North Carolina 28144  
(704) 638-9000 (OFFICE)  
(919) 760-0633 (HOME)

Executive Director  
Dr. John D. Robinson  
321 East Main Street  
Post Office Drawer 609  
Wallace, North Carolina 28466  
(919) 285-3160 (OFFICE)  
NC WATS 800-426-4457  
(919) 285-5059 (HOME)

Questions concerning the Board's operations or activities should be directed to Executive Director Robinson. The Board's legal counsel is:

Johnny M. Loper  
Womble Carlyle Sandridge and Rice  
Post Office Box 831  
Raleigh, North Carolina 27602  
(919) 755-2100

The Board does not hold regularly-scheduled meetings other than its annual meeting and those associated with the administration of licensing examination, but rather meets as events require. Although the Board has not designated a specific site for its meetings, they are most often held in Raleigh. The licensing examination meetings have been scheduled in Raleigh twice yearly through 1996. Administrative hearings are usually held in Raleigh.

### **NORTH CAROLINA BOARD OF PHARMACY**

The North Carolina Board of Pharmacy is located at 602H Jones Ferry Road, Carrboro, North Carolina. Its mailing address is Post Office Box 459, Carrboro, North Carolina 27510. The telephone number is (919) 942-4454. David R. Work is Executive Director of the Board. Requests for information or similar inquiries should be made to the Board's office. Members of the Board are: Jack G. Watts, President; Harold Vann Day, Vice-President; William H. Randall, Jr.; William Whitaker Moose; William T. Biggers; and Albert F. Lockamy, Jr.

### **NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS**

The North Carolina Board of Physical Therapy Examiners is an occupational licensing board which was created by the General Assembly in 1951. The Physical Therapy Practice Act is found in G.S. 90-270.24 -- 90-270.39.

The Board:

- 1) issues licenses to practitioners of physical therapy in order to protect the safety and

## **STATEMENTS OF ORGANIZATION**

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welfare of recipients of physical therapy services in North Carolina. Both physical therapists and physical therapist assistants are licensed by the Board. Currently there are 2318 physical therapists holding active licenses with 1635 of these residing in North Carolina. There are 758 licensed physical therapist assistants and 638 of them live in the State.

- 2) is charged with the responsibility of investigating complaints regarding the unauthorized practice of physical therapy in North Carolina and acts of licensees that violate the Practice Act.
- 3) issues interpretation of questions arising from the Physical Therapy Practice Act.

The Board consists of eight members including one medical doctor, four physical therapists, two physical therapist assistants, and one public member, who represents the interest of the public at large and is a person who is not licensed under Chapter 90.

Licenses are granted both by endorsement of an active license in another state and by examination. Examinations will be held on July 25, 1991, November 7, 1991, and March 5, 1992.

The Board has adopted rules and regulations pursuant to the Administrative Procedure Act which are codified in 21 NCAC, Chapter 48.

Further information may be obtained by writing the Executive Secretary, 2426 Tryon Road, Durham, North Carolina 27705.

### **NORTH CAROLINA BOARD OF PODIATRY EXAMINERS**

The Board of Podiatry Examiners for the State of North Carolina is established by G.S. 90-202.4 of the North Carolina General Statutes. The Board consists of four members appointed by the Governor. Three of the members are licensed podiatrists and the other member is chosen by the Governor to represent the public at large.

The Board of Podiatry Examiners for the State of North Carolina is an occupational licensing Board responsible for the practice of podiatry, including examinations, licensure, discipline, continuing education, record keeping and other matters pertaining to the practice of podiatry in the State of North Carolina.

Information may be obtained from and submissions and requests may be made through Ann Carlton, the Board's Executive Secretary, P. O. Box 1088, Raleigh, North Carolina 27602, or the Board President, Dr. C. Jeff Mauney, P. O. Box 1801, Shelby, North Carolina 28150. Ms. Carlton's phone number is (919) 829-4989 and Dr. Mauney's phone number is (704) 487-7555.

### **NORTH CAROLINA STATE BOARD OF EXAMINERS OF PRACTICING PSYCHOLOGISTS**

The North Carolina State Board of Examiners of Practicing Psychologists was established in 1967 by an Act of the North Carolina Legislature known as the Practicing Psychologist Licensing Act. The purpose of the Board is to provide for the examination and licensure of persons who engage in the practice of psychology in the State. The mailing address is University Hall, Appalachian State University, Boone, North Carolina 28608. Telephone (704) 262-2258.

### **NORTH CAROLINA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

The North Carolina State Board of Registration for Professional Engineers and Land Surveyors is established under the provisions of Chapter 89C of the North Carolina General Statutes. The Board is composed of nine members, appointed by the Governor for a five year term. There are four (4) Professional Engineer members, three (3) Registered Land Surveyor members, and two (2) public members.

The Board is responsible for the administration and regulation of the professions of engineering and land surveying in North Carolina. The Board reviews applications, administers examinations, registers qualified applicants, and regulates the professional practice of the registrants throughout the State. Complaints are investigated, and those requiring further action are scheduled for a hearing before the Board.

Board meetings are held at the Board's offices in Raleigh, and are open to the public. Persons wishing to bring matters for the Board's consideration should submit written notification or request to be placed on the agenda at least 20 days prior to the scheduled regular meeting. The Board address is 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609; phone (919) 781-9499.

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### **NORTH CAROLINA REAL ESTATE COMMISSION**

The North Carolina Real Estate Commission is a state governmental agency. Its address is Post Office Box 17100, Raleigh, NC 27619 and its telephone number is (919) 733-9580.

The Commission licenses and regulates real estate agents including brokers, salesmen and corporate brokers. It handles complaints from consumers against licensees. The Commission registers time share projects and regulates their sales activities. The Commission also licenses, certifies and regulates real estate appraisers, as directed by the Real Estate Appraisal Board. The Commission has the power to take disciplinary action against real estate agents, and time share projects where it determines there is a violation of the License Law, and state-licensed and state-certified real estate appraisers where the Appraisal Board determines there is a violation of the Appraiser Act.

Departments and personnel in the Real Estate Commission include the Commission itself, consisting of seven volunteer members appointed by the Governor. The Executive Director is responsible for overall administration of the Commission's staff, and programs and operations in accordance with the policies and directives of the Commission. The administrative section is responsible for personnel and financial management, as well as general and technical support. The licensing section processes the various applications submitted and maintains records on all licensees. The education section develops standards and materials for pre-licensing study, approves real estate schools and develops and administers the real estate and appraiser license examination program. The investigative section investigates complaints against real estate agents, appraisers and time share sales and management personnel. The section also employs auditors who examine the trust accounts of real estate firms and time share projects. The legal section conducts inquiries and coordinates investigations of consumer complaints, prosecutes charges against licensees at hearings before the Commission, and provides legal counsel to the Commission. The appraiser section administers a voluntary program for licensing and certifying real estate appraisers.

### **NORTH CAROLINA CERTIFICATION BOARD FOR SOCIAL WORK**

The North Carolina Certification Board for Social Work is an occupational regulatory board

authorized by the Social Worker Certification Act, Chapter 90B of the North Carolina General Statutes.

The North Carolina Certification Board for Social Work administers and enforces the provisions of the Social Worker Certification Act. The primary responsibilities of the Board are:

- (1) To examine and pass on the qualifications of all applicants for certification; and
- (2) To establish or approve study or training courses.

The North Carolina Certification Board for Social Work is composed by law of seven members appointed by the Governor. Board members shall include four certified social workers and three members from the general public. At all times the Board shall include at least one member primarily engaged in social work education, at least one member primarily engaged in social work in the public sector, and at least one member primarily engaged in social work in the private sector.

The public may obtain information about certification or submit applications to the North Carolina Certification Board for Social Work, P.O. Box 1043, Asheboro, North Carolina 27204, telephone (919) 625-1679.

### **BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS**

Board Chair: Gregg D. Givens, Ph.D.

Board Members: LuVern H. Kunze, Ph.D.

John E. Sexton, M.S.

Doris S. Blackwell, M. Ed.

G. Don Roberson, M.D.

Ms. Sheila W. Cothran

Ms. Thayle M. Sanderson

Executive Secretary: Sandra S. Capps

### **NORTH CAROLINA VETERINARY MEDICAL BOARD**

The North Carolina Veterinary Medical Board is charged with the licensing and regulation of the practice of veterinary medicine in the State of North Carolina. It is established pursuant to Article 11, Chapter 90 of the General Statutes. The Board office is located at 1307 Glenwood Avenue, Suite 156, Raleigh, North Carolina. For submissions, requests or further information, please contact the Executive Director of the

## **STATEMENTS OF ORGANIZATION**

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Board, Terrell B. Ryan, D.V.M., Post Office Box 12587, Raleigh, North Carolina 27605, Telephone: 919/733-7689.

### **NORTH CAROLINA DEPARTMENT OF COMMUNITY COLLEGES**

The Department of Community Colleges fulfills its administrative responsibilities through the following organizational structure: Office of the System's President with an Executive Vice President, four special assistants, and three divisions--Finance and Administrative Support, Programs, and Student Development Services, each headed by a Vice President.

### **NORTH CAROLINA HOUSING FINANCE AGENCY**

#### Description of Organization

The North Carolina Housing Finance Agency was created by the North Carolina General Assembly in 1973. The purpose of the Agency is to finance affordable housing for the state's low-and moderate-income citizens. The Agency obtains funds to meet this goal through the sale of tax-exempt bonds, the management of federal housing programs and the administration of the state's housing trust fund. Funds earned through Agency operations pay staff salaries and administrative expenses.

For state budget purposes, the Agency is categorized with the Governor's Office. However, a thirteen member board of directors, with expertise in various aspects of housing, sets policy for the organization and hires the Executive Director. Eight members of the board are appointed by the General Assembly, four upon the recommendation of the Speaker of the House of Representatives and four upon the recommendation of the President of the Senate. The Governor also appoints four members to the Board of Directors and the members of the Board elect a thirteenth member.

The Agency operates several housing programs that are in one of three program areas: single family homeownership; multifamily rental housing; and housing rehabilitation. In 1988, the Agency was also given responsibility for administration of the North Carolina Housing Trust Fund.

#### To Obtain Additional Information About the Agency or to Make Submissions or Requests

For information about the Agency and its programs, contact the North Carolina Housing Finance Agency, 3300 Drake Circle, (Suite 200),

Post Office Box 28066, Raleigh, North Carolina 27611. Telephone: (919) 781-6115. For general information about the Agency, interested parties should contact the Manager of Communications. For program information, or to make submissions related to specific programs, the director of the applicable program area (single family, multifamily or housing rehabilitation) should be contacted.

### **STATE OF NORTH CAROLINA OFFICE OF ADMINISTRATIVE HEARINGS**

The Office of Administrative Hearings (OAH) is an independent, quasi-judicial agency. The purpose of this agency is to establish and carry out a uniform system of administrative rulemaking and adjudicatory procedures for state agencies. The mission of this agency is carried out through three divisions within the Office with the Chief Administrative Law Judge/Director as the Agency Head.

The three divisions are as follows:

- (1) Hearings - This division is responsible for hearings on various grievable issues covered under the Administrative Procedure Act.
- (2) Rules - This division is responsible for the compilation, production and publication of the *North Carolina Register* and the *North Carolina Administrative Code*.
- (3) Civil Rights - This division is responsible for investigating and resolving discrimination cases for state personnel deferred by the Equal Employment Opportunities Commission.

The public may obtain information about and make submissions or requests to the Office of Administrative Hearings in person at 424 North Blount Street, Raleigh, North Carolina, by mail at Post Office Drawer 27447, Raleigh, North Carolina 27611-7447 and by telephone as follows:

Hearings Division  
(919) 733-2698

Rules Division  
(919) 733-2678

Civil Rights Division  
(919) 733-0431

## *STATEMENTS OF ORGANIZATION*

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The following agencies did not submit a Statement of Organization: Council of State; Revenue; State Treasurer; Transportation; State Personnel; Board of Barber Examiners; Board of Hearing Aid Dealers and Fitters; Marital & Family Therapy Certification Board; Board of Osteopathic Examination and Registration; Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors; Board of Practicing Counselors; Board of Refrigeration Examiners and Board of Sanitarian Examiners.

**TITLE 2 - DEPARTMENT OF  
AGRICULTURE**

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Board of Agriculture intends to adopt and amend rule(s) cited as 2 NCAC 9B .0016; 9C .0701 - .0704; 9M .0001; 20B .0413; 43D .0001 - .0003 and .0006; 43H .0004; 48A .1222, .1701 - .1708; 48B .0122, .0125 - .0132, .0201 - .0211.*

*Editor's Note: Rules 2 NCAC 48B .0001 - .0024 will be renumbered to 48B .0101 - .0124. Renumbering of current rules due to the adoption of Section .0200 under Subchapter 48B.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on September 18, 1991 at the Gov. James B. Hunt, Jr. Horse Complex (Restaurant), 4601 Trinity Rd., Raleigh, NC 27607.*

*Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to David S. McLeod, Secretary of the North Carolina Board of Agriculture, P.O. Box 27647, Raleigh, NC 27611.*

**CHAPTER 9 - FOOD AND DRUG PROTECTION DIVISION**

**SUBCHAPTER 9B - RULES AND STANDARDS ADOPTED BY REFERENCE**

**.0016 ADOPTIONS BY REFERENCE**

(f) The Board adopts by reference in accordance with G.S. 150B-14(c) the following parts and subparts of the Code of Federal Regulations, Title 21, Subchapter B (Food for Human Consumption), as promulgated by the Commissioner of the Food and Drug Administration under the authority of the Federal Food, Drug and Cosmetic Act:

Part	Subject of Part
(15) 129	Processing and Bottling of Bottled Drinking Water (Except as amended by 2 NCAC 9C .0700 - Bottled Water)

*Statutory Authority G.S. 106-139; 106-267; 106-267.2.*

**SUBCHAPTER 9C - CURRENT GOOD MANUFACTURING PRACTICES FOR**

**SPECIFIC FOOD INDUSTRIES**

**SECTION .0700 - BOTTLED WATER**

**.0701 SCOPE**

(a) The source approval requirements of this Section apply to bottled water sources located within the state. Bottled water from sources located outside the state must comply with the source approval requirements of Title 21, Code of Federal Regulations, Part 129, which is adopted by reference in 2 NCAC 9B .0016(d)(15).

(b) The labeling requirements of this Section apply to bottled water offered for sale in the state.

*Statutory Authority G.S. 106-139.*

**.0702 DEFINITIONS**

For the purposes of this Section:

- (1) "Approved source" when used in reference to a plant's product or operations water, means a source of water and the water therefrom, whether it be from a spring, well, municipal water supply, or any other source that has been approved by the Department of Agriculture's designated representative, the Department of Environment, Health, and Natural Resources, Environmental Health Division, Public Water Supply Section in accordance with this Section;
- (2) "Spring" means a natural orifice in the earth's surface through which water freely flows without the aid of mechanical means;
- (3) "Well" means a hole that is cored, bored, drilled, jetted, dug or otherwise constructed so as to tap an aquifer through which water is derived by mechanical means. If the water rises to the surface on its own without aid of mechanical means due to hydrostatic pressure, the well would be an artesian well.

*Statutory Authority G.S. 106-139.*

**.0703 SOURCE APPROVAL**

(a) If the proposed source is from an existing approved public water supply system, proceed to Paragraph (e) of this Rule.

(b) If the proposed source is a well, the provisions of 15A NCAC 18C, Rules Governing Public Water Supplies, shall apply. Copies are available upon request from the Public Water Supply Section.

(c) If the proposed source is a spring, approval requires a two step process. The first step is approval of the spring site. A representative of the Department of Environment, Health, and Natural Resources shall conduct an initial site investigation. Consideration shall be given to

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spring location, potential for surface water influence, hydrological and geological features, proximity of potential sources of pollution, site ownership and control and other factors which he determines to have a bearing on the suitability of the site to produce a safe water source:

- (1) If the investigation reveals influence by surface water or other factors which render the site unsuitable for development as a safe water source, the investigation shall be terminated;
- (2) If the investigation does not reveal influence by surface waters, and all other factors are considered satisfactory for site development, proceed to Paragraph (d) of this Rule;
- (3) If the investigation reveals factors which warrant further investigation, the Department of Environment, Health, and Natural Resources may require, as a condition for continued investigation, evaluation of the site or specific factors influencing the site by a geologist and/or engineer licensed to practice in North Carolina. If the Department of Environment, Health, and Natural Resources determines that the investigation and report illustrate that the questionable factors do not hinder the suitability of the site to produce a safe water source, proceed to Paragraph (d) of this Rule.
- (d) The second step of the spring investigation requires water sampling and data collection to determine the capability of source water to meet current North Carolina drinking water quality standards under the most severe anticipated environmental conditions. The following requirements apply to the water sampling and data collection process:
  - (1) Sampling and data collection shall be conducted by the spring owner or his representative for the following parameters:
    - (A) Flow in gallons per minute (on-site measurement);
    - (B) Precipitation in inches (on-site measurement);
    - (C) Temperature (on-site measurement);
    - (D) pH;
    - (E) Conductivity;
    - (F) Turbidity;
    - (G) Coliform bacteria;
  - (II) Microscopic analysis for organic debris, larvae, animal or insect parts, algae, diatoms, rotifers, eoccidia and giardia cysts;
- (2) The minimum sampling and data collection period shall be six consecutive

months. The period shall also include a minimum of two storm events (two or more inches of rainfall in a 24-hour period). It is the owner's responsibility to monitor rainfall in the vicinity of the spring site;

- (3) Parameters listed as (1)(A) through (1)(F) of this Paragraph shall be monitored at least weekly on the same day of the week before a storm event occurs. After a storm event occurs, parameters (1)(A) through (1)(F) of this Paragraph shall be monitored within 24 hours and then twice a week for two weeks. Parameter (1)(G) of this Paragraph shall be monitored at least monthly plus one sample within 24 hours after each storm event. Parameter (1)(H) of this Paragraph shall be measured at least two times during the sampling period. The first analysis should be conducted early in the sampling period. At least one of the samples shall be collected within 24 hours of a storm event;
- (4) The extent to which the spring is developed before beginning the monitoring process is at the discretion of the owner. This may have a bearing on the analysis results, and some spring site improvement may be advisable. Unfavorable sample results will not be discounted on the basis of inadequate spring development at the time of sample collection. The owner may wish to obtain the advice of an engineer or other consultant. If the owner intends to develop the spring in its final form before monitoring, he shall complete the requirements of Paragraph (e) of this Rule prior to construction;
- (5) These measurements and analyses shall be conducted in accordance with the recommendations of the current edition of "Standards Methods for the Examination of Water and Wastewater" and at a laboratory certified by the State of North Carolina for parameters (1)(D) through (1)(H) of this Paragraph. All measurements and sample results (with attached laboratory analysis reports) shall be kept in a neat tabular form and submitted to the Department of Environment, Health, and Natural Resources at the end of the monitoring period. The spring owner may consult with the Department of Environment, Health, and Natural Resources at any point during the monitoring period. Upon review of the data and sample results, the Department of Environment, Health, and Natural Re-

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sources shall determine the capability of the source to meet current North Carolina drinking water quality standards. If the water source is determined to be unsatisfactory, the investigation shall be terminated. If the source is determined to be satisfactory, proceed to Paragraph (e) of this Rule.

(e) Plans and specifications for construction of the source, protective covering, piping, and storage facilities shall be submitted to the Department of Environment, Health, and Natural Resources by an engineer licensed to practice in the State of North Carolina for review and approval prior to beginning construction or letting a contract. For spring sources, the plans and specifications may be presented by the licensed engineer at any point during the process outlined in Paragraph (d) of this Rule. Springs shall not be constructed to the final intended form until plans and specifications for the spring have been approved.

(f) The bottling of water or the selling of water for bottling shall not begin until compliance with this Section has been completed and the Department of Environment, Health, and Natural Resources receives certification from an engineer licensed to practice in North Carolina that the project has been constructed in accordance with the approved plans and specifications.

*Statutory Authority G.S. 106-139.*

### **.0704 LABELING**

Bottled water which uses the word "spring" or "well" in its labeling to describe the product, other than in a trade name or company name, shall be deemed to be misbranded unless the source of such water conforms to the definitions of those terms in Rule .0702 of this Section.

*Statutory Authority G.S. 106-139.*

### **SUBCHAPTER 9M - DRUGS**

#### **.0001 MANUFACTURER REGISTRATION**

(a) Every person doing business in North Carolina and operating as a prescription drug manufacturer, repackager or wholesaler shall submit a completed prescription drug registration form to the department. A separate registration form shall be submitted for each establishment operating in the State of North Carolina. Each registration form shall be signed by the owner or individual in charge.

(b) A registration fee of one five hundred dollars (\$100.00) (\$500.00) for manufacturers or

repackagers and a fee of three hundred fifty dollars (\$350.00) for wholesalers shall be submitted with each ~~prescription drug~~ registration or renewal form.

(c) On or before December 31 of each year, every person registered in accordance with Paragraph (a) of this Rule shall submit a renewal form furnished by the division.

(d) ~~A fee of one hundred dollars (\$100.00) shall be submitted with each renewal form.~~

(e) (d) Prescription Drug Registration Forms may be obtained from the Food and Drug Protection Division.

*Statutory Authority G.S. 106-140.1.*

## **CHAPTER 20 - THE NORTH CAROLINA STATE FAIR**

### **SUBCHAPTER 20B - REGULATIONS OF THE STATE FAIR**

#### **SECTION .0400 - OPERATION OF STATE FAIR FACILITIES**

##### **.0413 ALCOHOLIC BEVERAGES**

(a) A person shall not sell, offer for sale, or possess for the purpose of sale, any alcoholic beverage on State Fair property, except as permitted under Paragraph (e) of this Rule.

(b) A person shall not possess or consume any alcoholic beverage at ticketed, commercial events that are open to the public on State Fair property except as permitted under Paragraph (e) of this Rule.

(c) Except during the annual State Fair, beer and wine may be sold and consumed at the horse facility, subject to state alcoholic beverage control laws and regulations.

(d) ~~Except during the annual State Fair, beer may be sold and consumed at Dorton Arena in connection with professional sporting events, subject to state alcoholic beverage control laws and regulations.~~

*Statutory Authority G.S. 106-503.*

## **CHAPTER 43 - MARKETS**

### **SUBCHAPTER 43D - STANDARDS AND FEES**

#### **.0001 GRAIN**

(a) ~~The Markets Division Pursuant to G.S. 150B-14(c), the Board of Agriculture hereby adopts by reference: the United States Grain Standards Act codified in 7 U.S. Code 1621 et seq. except parts 70(a) and 70(b).~~

(b) ~~The Markets Division hereby adopts by reference:~~

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- (1) The United States Grain Standards Act codified in 7 U.S. Code 1621 et. seq. except parts 79(a) and 79(b);
- (2) 7 C.F.R. 800.115 through 7 C.F.R. 800.119 (original inspections);
- (3) 7 C.F.R. 800.125 through 7 C.F.R. 800.131 (reinspection);
- (4) 7 C.F.R. 800.135 through 7 C.F.R. 800.140 (appeals);
- (5) 7 C.F.R. 800.145 through 7 C.F.R. 800.155 (records);
- (6) 7 C.F.R. 800.70 through 7 C.F.R. 800.73 (fees);
- (7) (6) Federal Grain Inspection Service Document 12-36-A-4001, published by the United States Department of Agriculture;
- (8) 7 C.F.R. 800.170 through 7 C.F.R. 800.180 (licenses);
- (9) 7 C.F.R. 800.185 through 7 C.F.R. 800.189 (duties of licensed personnel);
- (10) 7 C.F.R. 800.195 through 7 C.F.R. 800.208 (contracts).

*Statutory Authority G.S. 106-188; 106-190; 106-195.*

### .0002 FRESH FRUITS AND VEGETABLES

The Markets Division Pursuant to G. S. 150B-14(c), the Board of Agriculture hereby adopts by reference 7 C.F.R. 51.

*Statutory Authority G.S. 106-188; 106-190; 106-195.*

### .0003 POULTRY AND EGGS

(a) The Markets Division Pursuant to G. S. 150B-14(c), the Board of Agriculture hereby adopts by reference: 7 C.F.R. Parts 55, 56, 59 and 70.

(b) The Markets Division hereby adopts by reference the following publications issued by the United States Department of Agriculture:

- (1) 7 C.F.R. Parts 55, 56, 59 and 70, relating to eggs and poultry products;
- (2) The following publications issued by the United States Department of Agriculture:
  - (a) "General Index";
  - (b) "Egg Grader's Index";
  - (c) "Poultry Grader's Index".

*Statutory Authority G.S. 106-188; 106-190; 106-195.*

### .0006 MEATS AND MEAT PRODUCTS

Pursuant to G. S. 150B-14(c), the Board of Agriculture hereby adopts by reference 7 C.F.R. Part 54 - Meats, Prepared Meats and Meat Products.

*Statutory Authority G. S. 106-188; 106-190; 106-195.*

## SUBCHAPTER 43II - MARKETING OF SHELL EGGS

### .0004 SANITATION AND MATERIALS

(b) Eggs shall be deemed to be held in a proper environment, as specified in G.S. 106-245.22, when cooled to 60 degrees F. or less immediately after gathering on the farm and egg temperature of 60 degrees F. or less is maintained until placed into retail displays available to the consumer, gathered promptly, and placed in a refrigerated cooling room with an ambient temperature of 60 degrees F. or lower, until graded and packed. After grading and packing, eggs shall be held or transported at a refrigerated ambient temperature of 45 degrees F. or less without freezing, until sold to the consumer or used in food preparation.

*Statutory Authority G.S. 106-245.16; 106-245.21; 106-245.22.*

## CHAPTER 48 - PLANT INDUSTRY

### SUBCHAPTER 48A - PLANT PROTECTION

#### SECTION .1200 - NURSERY CERTIFICATION

##### .1222 EXPORT CERTIFICATION INSPECTION FEE

Persons requesting inspection of plants or plant products for purposes of obtaining federal export certification shall be charged the same fee charged by the United States Department of Agriculture.

*Statutory Authority G.S. 106-420.*

#### SECTION .1700 - STATE NOXIOUS WEEDS

##### .1701 DEFINITIONS

The following definitions shall apply to this Section:

- (1) Administrator. The Plant Pest Administrator of the North Carolina Department of Agriculture, Plant Industry Division;
- (2) Board. The North Carolina Board of Agriculture;
- (3) Certificate. A document issued by a specialist to allow the movement of noncontaminated regulated articles to any destination;
- (4) Class A. Any noxious weed on the Federal Noxious Weed List or any noxious weed that is not native to the State, not currently known to occur in the State, and poses a serious threat to the State;

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- (5) Class B. Any noxious weed that is not native to the State, is of limited distribution statewide, and poses a serious threat to the State;
- (6) Class C. Any other designated noxious weed;
- (7) Commissioner. The Commissioner of the North Carolina Department of Agriculture or his authorized representative;
- (8) Compliance Agreement. A written agreement between a person engaged in growing, handling, or moving regulated articles, and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with the requirements of the compliance agreement;
- (9) Infestation. The presence of a noxious weed in any stage of development;
- (10) Noxious Weed. Any plant in any stage of development, including parasitic plants whose presence whether direct or indirect, is detrimental to crops or other desirable plants, livestock, land, or other property, or is injurious to the public health;
- (11) Limited Permit. A document issued by a specialist to allow the movement of noncertified regulated articles to a specified destination for special handling, utilization, or processing, or for treatment;
- (12) Regulated Article. Any noxious weed or any article described in these Rules which is capable of carrying a noxious weed;
- (13) Regulated Area. Any state or territory or any portion thereof of the United States which is infested with a noxious weed;
- (14) Scientific Permit. A document issued by the Administrator to authorize the movement of regulated articles to a specified destination for scientific purposes;
- (15) Specialist. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this Section.

*Statutory Authority G.S. 106-420.*

### **.1702 NOXIOUS WEEDS**

- (a) Class A Noxious Weeds. The North Carolina Board of Agriculture hereby adopts by reference, pursuant to G. S. 150B-14(e), the following list of Class A Noxious Weeds: all weeds listed in 7 C.F.R. § 360.200.
- (b) Class B Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class B Noxious Weeds:

- (1) Betony, Florida-- *Stachys floridana* Shuttlew.;
- (2) Fieldcress, Yellow--*Rorippa sylvestris* (L.) Bess.;
- (3) Puncturevine--*Tribulus terrestris* L.;
- (4) Thistle, Canada--*Cirsium arvense* (L.) Scop.;
- (5) Thistle, Musk--*Carduus nutans* L.;
- (6) Thistle, Plumeless--*Carduus acanthoides* L.

(c) Class C Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class C Noxious Weeds: none.

(d) Temporary Designation of Noxious Weeds. In an emergency situation, the Commissioner may temporarily designate any weed as a noxious weed if he has reasonable cause to believe that it may pose a serious threat to the State. The temporary designation may be imposed by serving written notice to the appropriate regulatory agency(ies) or to the owner or the responsible party where the noxious weed has been found. The period of temporary designation shall continue until such time as the Board meets to consider permanent or continued temporary status. Temporary status shall not extend for more than 12 months.

*Statutory Authority G.S. 106-420.*

### **.1703 REGULATED AREAS**

- (a) The movement of regulated articles into North Carolina from any state or territory of the United States or portion thereof known to be infested with a Class A or B noxious weed is prohibited.
- (b) The movement of regulated articles within North Carolina from the following areas is prohibited:
  - (1) The entire State: Class A Noxious Weeds;
  - (2) Brunswick, Cumberland, Forsyth, Hoke, New Hanover, Onslow, Wake: Betony, Florida--*Stachys floridana* Shuttlew.;
  - (3) Orange: Fieldcress, Yellow--*Rorippa sylvestris* (L.) Bess.;
  - (4) Durham, New Hanover: Puncturevine--*Tribulus terrestris* L.;
  - (5) Ashe, Avery, Haywood, Mitchell, Northampton, Yancey: Thistle, Canada--*Cirsium arvense* (L.) Scop.;
  - (6) Chatham, Henderson: Thistle, Musk--*Carduus nutans* L.;
  - (7) Jackson, Haywood, Madison, Watauga: Thistle, Plumeless--*Carduus acanthoides* L.
- (c) Temporary designation of regulated areas. In an emergency situation, the Commissioner

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may temporarily designate as a regulated area any state or any portion of any state if he has reasonable cause to believe that a noxious weed exists and there is immediate need to prevent its introduction, spread or dissemination in North Carolina. The designation of regulated area shall be imposed by serving written notice to the appropriate regulatory agency(ies) or to the owner or the responsible party in possession of such premises or after intent has been published in a newspaper having general circulation in the county(ies) where the regulated area is to be imposed. The period for such temporary designation shall continue until such time as the Board meets to consider permanent or continued temporary status. Temporary status shall not extend for more than 12 months.

*Statutory Authority G.S. 106-420.*

### **.1704 REGULATED ARTICLES**

The following articles are regulated under the provisions of this Section:

- (1) Any noxious weed in any stage of development;
- (2) Soil, compost, peat, humus, muck, and decomposed manure, sand, and gravel, separately or mixed with other articles, except potting soil that has been commercially prepared and free of noxious weed seed, packaged and shipped in original containers;
- (3) Nursery stock (houseplants grown in a home and not for sale are excluded);
- (4) Grass sod;
- (5) Used mechanized soil-moving equipment, cultivating equipment and harvesting machinery, except when decontaminated, cleaned free of soil;
- (6) Hay, straw, and other material of a similar nature;
- (7) Any other product, article, or means of conveyance of any nature whatsoever not covered in this Rule when it is determined by the Administrator to present a hazard of spread of noxious weeds and the person in possession has been so notified.

*Statutory Authority G.S. 106-420.*

### **.1705 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES**

- (a) A certificate or permit must accompany the movement of regulated articles from regulated areas into North Carolina.
- (b) A certificate or permit must accompany the movement of regulated articles from a regulated area in North Carolina to a non-regulated area in North Carolina.

*Statutory Authority G.S. 106-420.*

### **.1706 ISSUANCE OF CERTIFICATES AND LIMITED PERMITS**

(a) Certificates may be issued by a specialist for the movement of regulated articles under the following conditions:

- (1) In the judgment of the specialist, they have not been exposed to infestations;
- (2) They have been examined and found to be free of noxious weeds;
- (3) They have been treated under the direction of the specialist with approved control measures known to be effective under the conditions applied;
- (4) They have been gown, produced, stored, or handled in such manner that, in the judgment of the specialist, designated noxious weeds would not be transmitted by movement of the article.

(b) Limited permits may be issued by a specialist for the movement of noncertified regulated articles to specified destinations for limited handling, utilization, processing or treatment when the specialist determines no hazard of spread of noxious weeds exists.

(c) Scientific permits may be issued by the Administrator to allow the movement of noxious weeds in any living stage and any regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Plant Pest Administrator. Scientific permits will be issued pursuant to 2 NCAC 48A .1300.

(d) As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles, as may be required by the specialist.

*Statutory Authority G.S. 106-420.*

### **.1707 CANCELLATION OF CERTIFICATES AND LIMITED PERMITS**

Any certificate, limited permit, scientific permit, or compliance agreement which has been issued or authorized may be canceled by the specialist if he determines that the holder has not complied with conditions for its use.

## **PROPOSED RULES**

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*Statutory Authority G.S. 106-420.*

### **.1708 INSPECTION AND DISPOSAL**

Any specialist is authorized to stop and inspect, any person or means of conveyance moving within or from the State of North Carolina upon probable cause to believe that such means of conveyance or articles are infested with a noxious weed; and, such specialist is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these Rules.

*Statutory Authority G.S. 106-420.*

## **SUBCHAPTER 48B - FERTILIZER**

### **SECTION .0100 - FERTILIZER STANDARDS**

#### **.0122 ORGANIC FERTILIZERS**

(c) If an amount of nitrogen is designated as organic, then the water insoluble nitrogen and/or the slow release nitrogen guarantee must not be less than 60 percent of the nitrogen as designated. Coated urea must not be included to meet the 60 percent requirement.

*Statutory Authority G.S. 106-660(a).*

#### **.0125 NATURAL ORGANIC FERTILIZERS**

To label or claim a product as natural organic fertilizer, materials must be derived from either plant or animal products containing one or more elements (other than carbon hydrogen and oxygen) which are essential for plant growth. These materials may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic, or anaerobic/aerobic bacterial action, or any combination of these. These materials shall not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by manipulations such as drying, cooking, chopping, grinding, shredding, ashing, hydrolysis or pelleting.

*Statutory Authority G.S. 106-660(a).*

#### **.0126 NATURAL INORGANIC FERTILIZERS**

To claim or label a product as natural inorganic fertilizer, it must be a mineral nutrient source that exists in or is produced by nature and may be altered from its original state only by physical manipulation.

*Statutory Authority G.S. 106-660(a).*

#### **.0127 NATURAL FERTILIZERS**

To label or claim a product to be natural fertilizer, it must be a substance composed only of natural organic and/or natural inorganic fertilizer materials and natural filler.

*Statutory Authority G.S. 106-660(a).*

#### **.0128 NATURAL BASED FERTILIZERS**

To label or claim a product to be natural based, it must contain at least 50 percent by weight of natural materials and contain at least 50 percent of all primary nutrients derived from natural materials.

*Statutory Authority G.S. 106-660(a).*

#### **.0129 ORGANIC BASED FERTILIZERS**

To label or claim a product to be organic based, it must contain at least 50 percent by weight of organic materials and contain at least 50 percent of all primary nutrients derived from organic materials.

*Statutory Authority G.S. 106-660(a).*

#### **.0130 USE OF "PERCENTAGE"**

The term "percentage" by symbol or word, when used on a fertilizer label shall represent only the amount of individual plant nutrients in relation to the total product by weight.

*Statutory Authority G.S. 106-660(a).*

#### **.0131 MANIPULATED MANURES**

(a) Manipulated manures may contain whatever organic bedding or other materials needed to follow good dairy barn, feedlot, poultry house, etc., practice in order to maintain proper sanitary conditions, to conserve plant food elements in the excreta, and to absorb the liquid portion without the addition of other material.

(b) If other ingredients are added, they shall be specified on the principal label of the container. If the added ingredient exceeds the amount of manure, it shall be the first ingredient listed on the principal label and the words "manure," "cow manure," "sheep manure," etc., shall be in type smaller than that used for such added ingredient. When the packaging of a product features the picture or name of an animal, manure of that species of animal shall comprise more than 50 percent of the material in the container. Manures containing more than 30 percent acid insoluble ash (sand) shall be labeled "sheep manure and sand," or "dried sheep manure, sand and other inert materials," etc. Manures containing more than 50 percent acid insoluble ash shall be labeled "sand and sheep manure," or

"sand, other inert matter, and sheep manure," etc.

*Statutory Authority G.S. 106-660(a).*

**.0132 MAGNESIUM/MANGANESE GUARANTEES**

Each application for registration of any fertilizer for which magnesium or manganese is guaranteed shall include a guaranteed analysis in the following form:

(1) total magnesium water soluble magnesium	X Percent
(2) total manganese water soluble manganese	X Percent; or X Percent

*Statutory Authority G.S. 106-660(a).*

**SECTION .0200 - PRIMARY AND SECONDARY CONTAINMENT OF FERTILIZERS**

**.0201 DEFINITIONS**

For the purposes of these Rules the following definitions shall apply:

- (1) "Approved" means approval by the Commissioner or his agent except where otherwise stated;
- (2) "Appurtenance" means any device used in connection with a storage container, secondary containment area, structure or device, primary containment structure or device, or storage for dry fertilizer, including safety devices, liquid level gauging devices, valves, pipes, hoses, fittings, and measuring or dispensing devices;
- (3) "Aqua ammonia" means an aqueous solution of anhydrous ammonia generally containing from 13 to 30 percent of ammonia ( $\text{NH}_3$ ) by weight and having a vapor pressure usually varying from 0 to 10 psig at 104 degrees F.;
- (4) "Commissioner" means the North Carolina Commissioner of Agriculture or his designated agent;
- (5) "Discharge" means a release outside the containment area of fertilizer in a quantity exceeding 55 U. S. gallons and/or of dry bulk fertilizer in a quantity exceeding 500 pounds;
- (6) "Dry bulk fertilizer" means non-fluid fertilizer in an undivided quantity exceeding 500 pounds;
- (7) "Elephant ring" means a storage container with open top serving as a secondary containment vessel into which a smaller primary storage container(s) is placed;

- (8) "End user storage facility" means a storage facility owned and/or operated by an individual for personal use. If 200 tons of fluid or 200 or more tons dry fertilizer are used at this type facility in a 12 month period, the facility must comply with the requirements of these Regulations. If less than 200 tons fluid or 200 tons dry fertilizer are used in a 12 month period, loading pads will not be required, but all other requirements apply;
- (9) "Fertilizer" means any substance containing either nitrogen, phosphorous, potassium or any other recognized plant food element or compound which is used primarily for its plant food content and includes products resulting from the combination or mixture of two or more substances for use in, or claimed to have value in promoting plant growth;
- (10) "Field operations" means the application of fertilizer to soil or plants in the course of normal agricultural or horticultural practice;
- (11) "Fluid bulk fertilizer" means fluid fertilizer in an undivided quantity exceeding 55 U. S. gallons;
- (12) "Fluid fertilizer" means fertilizer in fluid form and includes solutions, emulsions, suspensions and slurries. "Fluid fertilizer" does not include anhydrous ammonia;
- (13) "Low pressure nitrogen solutions" means an aqueous solution of ammonium nitrate and/or urea and/or other nitrogen carriers, containing various quantities of free ammonia exceeding 2 percent by weight. Aqua ammonia and non-pressure nitrogen solutions commonly referred to as 28 percent, 30 percent, or 32 percent nitrogen solution are excluded from this definition;
- (14) "Operational area" means an area at a fertilizer storage facility where fertilizers are transferred, loaded, unloaded, mixed, or where fertilizers are cleaned or washed from application equipment, storage containers, or transportation equipment;
- (15) "Operational area containment" means any structure or system designed and constructed to effectively intercept and contain operational spills including container or contaminated wash water and rainwater and to prevent runoff or leaching from a storage facility;
- (16) "Primary containment" means the storage of fluid or dry bulk fertilizer in storage containers at a storage facility;
- (17) "Secondary containment" means any structure used to contain product spills from bulk storage containers and prevent runoff or leaching;

## ***PROPOSED RULES***

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(18) "Storage container" means:

- (a) A container used for the storage of fluid or dry bulk fertilizer;
- (b) A rail car, nurse tank, or other mobile container used for the storage of fluid or dry bulk fertilizer;

(19) "Storage container" does not include:

- (a) a mobile container storing fluid bulk or dry fertilizer at a storage facility for less than 15 days, if this storage is incidental to the loading or unloading of a storage container at the storage facility;
- (b) a mobile container located other than on property owned, operated or controlled by the owner or operator of the mobile container;
- (c) a container used solely for emergency storage of leaking fertilizer containers that are 55 U. S. gallons or smaller;

(20) "Storage facility" means a location at which fluid bulk fertilizer in undivided quantities or dry bulk fertilizer in undivided quantities is held in storage.

*Statutory Authority G.S. 106-673.*

### **.0202 STORAGE CONTAINERS AND APPURTENANCES**

(a) Basic requirements:

- (1) Storage containers and appurtenances shall be constructed, installed and maintained so as to prevent the discharge of fluid fertilizer;
- (2) Storage containers and appurtenances shall be constructed of materials which are resistant to corrosion, puncture, or cracking;
- (3) Materials used in the construction or repair of storage containers and appurtenances may not be of a type which react chemically or electrolytically with stored fluid fertilizer in a way which may weaken the storage containers or appurtenances, or create a risk of discharge;
- (4) Metals used for valves, fittings, and repairs of metal containers shall be compatible with the metals used in the construction of the storage container, so that the combination of metals does not cause or increase corrosion which may weaken the storage container or its appurtenances, or create a risk of discharge;
- (5) Storage containers and appurtenances shall be designed to handle all operating stresses, taking into account static head, pressure buildup from pumps and compressors, and any other mechanical or hydraulic stresses to which the storage

containers and appurtenances may be subject in the foreseeable course of operations.

(b) Prohibition against underground storage, exemptions:

- (1) No person shall store fluid fertilizer in an underground or lined pit storage container;
- (2) This prohibition does not apply to:
  - (A) A watertight catch basin used for the temporary collection of runoff or rinsate from transfer, loading or secondary containment areas that is expeditiously emptied following use;
  - (B) Storage in a 316 or 317 stainless steel storage container, if the storage container is enclosed within an approved liner and an approved program of groundwater monitoring to detect leakage is established.

(c) Abandoned containers:

- (1) Storage containers and other containers used at a storage facility to hold fluid bulk fertilizer or fertilizer rinsate are considered abandoned if they have been out of service for more than six months because of a weakness or leak, or have been out of service for any reason for more than two years and no integrity test has been performed;
- (2) Abandoned underground containers, including abandoned underground catch basins, shall be thoroughly cleaned and removed from the ground or thoroughly cleaned and filled with an inert solid. All connections and vents shall be disconnected and sealed. A record of the underground container or catch basin size, location, and method of closing shall be maintained at the storage facility or as otherwise provided for in these Rules;
- (3) Abandoned above-ground containers shall be thoroughly cleaned. All hatches on the containers shall be secured, and all valves or connections shall be severed and/or sealed;
- (4) A secondary containment (structure) is not considered abandoned merely because there have been no discharges into the secondary containment facility.

(d) Prohibited materials:

- (1) Storage containers and appurtenances may not be constructed of copper, brass, zinc, or copper base alloys;
- (2) Storage containers and appurtenances used for the storage of fluid fertilizers containing phosphate (> 0.1 %) or chlorides

## ***PROPOSED RULES***

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may not be constructed of aluminum or aluminum alloys;

(3) Storage containers and appurtenances used for the storage of low pH ( $< 5$ ) fluid fertilizers may not be constructed of ferrous materials other than stainless steel unless the materials are coated or treated with protective substances which are adequate to inhibit corrosion;

(4) Storage containers and appurtenances used for the storage of low pressure nitrogen solutions may not be constructed of mild steel, fiberglass, polyolefins or plastics;

(5) Storage containers and appurtenances used for the storage of phosphoric acid may not be constructed of ferrous materials other than 316, 317, or superior stainless steel unless the container is lined with a suitable substance to prevent corrosion;

(6) Storage containers and appurtenances used for the storage of fluid fertilizers containing potassium chloride (muriate of potash) may not be constructed of ferrous materials other than stainless steel, unless:

(A) the containers and appurtenances are coated or treated with protective substances which are adequate to inhibit corrosion, or

(B) the container and appurtenances are used for storage periods of not more than six months, and is completely emptied between storage periods, and, the empty containers and appurtenances are cleaned and inspected for leaks prior to being refilled for any subsequent period.

(e) Anchoring storage containers. Storage containers shall be anchored, as necessary, to prevent flotation or instability which might occur as a result of liquid accumulations within a secondary containment facility constructed in accordance with these Rules.

(f) Security:

(1) Storage containers and appurtenances shall be fenced or otherwise secured to provide reasonable protection against vandalism or unauthorized access which may result in a discharge;

(2) Valves on storage containers shall be locked or otherwise secured except when persons responsible for facility security are present at the facility. When multiple valves on a single line are used, the valve nearest container shall be locked or secured;

(3) Valves on rail cars, nurse tanks, and other mobile fertilizer containers parked overnight at a storage facility shall be locked or secured except when persons responsible for facility security are present at the facility;

(4) Valves on empty containers need not be secured.

(g) Filling storage containers. Storage containers may not be filled beyond the capacity for which they are designed, taking into account the density of the fluid being stored and thermal expansion during storage.

(h) Pipes and fittings. Pipes and fittings shall be adequately supported to prevent sagging and possible breakage because of gravity and other forces which may be encountered in the ordinary course of operations.

(i) Liquid level gauging device:

(1) Every storage container shall be equipped with a liquid level gauging device by which the level of fluid in the storage container can be readily and safely determined;

(2) A liquid level gauging device is not required if the level of fluid in a storage container can be readily and reliably measured by other means;

(3) Liquid level gauging devices shall be secured, in a safe manner, to protect against breakage or vandalism which may result in a discharge;

(4) External sight gauges are prohibited unless they are equipped with a shut-off valve. Valves are to be cut off except when responsible person is attending.

(j) Labeling of storage containers. Every storage container shall be clearly labeled to identify its fertilizer contents, with the grade in a minimum of two inch numerals. All materials shall be labeled according to applicable regulations for such material.

*Statutory Authority G.S. 106-673.*

### **.0203 LOADOUT AND UNLOADING PADS**

(a) Areas used for the loading of fluid bulk fertilizer into storage containers, or for unloading fluid bulk fertilizer from storage containers into mobile containers shall be curbed and paved with asphalt, concrete or other approved material. Bulk storage construction standards for primary, secondary and operational area containment facilities constructed after the date of adoption of this Rule must be of a type recommended by Tennessee Valley Authority, a licensed engineer or other sources approved by the Commissioner.

(b) The curb and paved area shall be sufficiently large to hold the entire mobile container during loading or unloading. The pad shall be designed, constructed and maintained to handle

all loading conditions to which it is exposed. Cracks and seams shall be kept sealed.

*Statutory Authority G.S. 106-673.*

**.0204 CATCH BASINS**

(a) The curbed and paved surface shall form or drain into a liquid-tight catch basin. If the curbed and paved surface drains to a sump, the catch basin may include the sump and an above-ground container, provided a pump is installed for transfer of the contents of the sump into the above-ground container.

(b) The curbed surface and catch basin shall be of adequate design and size to contain the tank or tanker to be loaded or unloaded and have a minimum holding capacity of at least 1,000 U.S. gallons. The catch basin should be equipped with a sump pump with capacity sufficient to remove any liquids into a storage tank connected to the system. The pumping system shall be sufficient to prevent overflow of the catch basin.

(c) Recovery discharge. A discharge incident to loading or unloading shall be promptly recovered from the paved surface and catch basin, such that the capacity required in Paragraph (b) of this Rule is available at all times.

(d) Protection of containers and appurtenances, including pipes. They shall be protected against reasonably foreseeable risks of damage by trucks and moving vehicles engaged in the loading or unloading of fluid bulk fertilizer.

(e) Exemption for mobile containers at end user application sites. Rules .0203 and .0204 of this Section do not apply to mobile containers used to nurse field operations when at an application site.

*Statutory Authority G.S. 106-673.*

**.0205 DIKED SECONDARY CONTAINMENT OF FLUID BULK FERTILIZER**

(a) Dike. Primary storage of fluid bulk fertilizer shall be located within a diked area constructed with a base, perimeter wall and sloped floor drain, except as noted in 2 NCAC 48B .0206(c).

(b) Separation of secondary containment areas. The diked area shall be separate from a secondary containment area for other products, such as agri-chemicals or other non fertilizer products and used only for containment of primary storage of fluid bulk fertilizer. Adjoining secondary containment areas may share common walls.

(c) Capacity. The diked area for containment of storage facilities shall contain, below the height of the dike, 125 percent of the volume of the largest storage container within the diked area

plus the displaced volume of all other storage containers, fixtures, and materials in the area. If the diked area is covered to prevent the accumulation of rainfall, a capacity equal to 100 percent of the volume of the largest container is the minimum required.

(d) Existing drainage tile. Except where used as a method of monitoring a secondary containment system, drainage tile within or underlying the area to be diked shall be eliminated.

*Statutory Authority G.S. 106-673.*

**.0206 DIKING REQUIREMENTS**

(a) Walls:

- (1) The walls of a secondary containment facility shall be constructed of earth, steel, concrete, solid masonry, or other material specifically approved by the Commissioner, and be designed to withstand a full hydrostatic head of any discharged fluid and weight load of material;
- (2) Cracks and seams shall be sealed to prevent leakage;
- (3) Walls constructed of earth or other permeable materials shall be lined as provided under Paragraph (b) of this Rule;
- (4) Earthen walls shall have a horizontal-to-vertical slope of at least three to two, unless a steeper slope is consistent with good engineering practice, and shall be packed and protected for erosion;
- (5) The top of earthen walls shall be no less than 2.5 feet wide;
- (6) Walls may not exceed six feet in height above interior grade unless provisions are made for normal access and necessary emergency access to tanks, valves, and other equipment, and for safe exit from the secondary containment facility;
- (7) Walls constructed of concrete or solid masonry shall rest upon a floating base of concrete prepared as in Paragraph (b) of this Rule, or upon suitable concrete footings which extend below the average frost dept to provide structural integrity.

(b) Lining:

- (1) General requirement. The base of a secondary containment facility, and any interior earthen walls of the facility shall be lined with asphalt, concrete, and approved synthetic liner, or a clay soil liner designed to limit permeability. Liners shall meet the requirements of this Paragraph;
- (2) Asphalt or concrete liners. Asphalt or concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, in-

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cluding a full hydrostatic head of discharge fluid and static loads of storage containers, including appurtenances, equipment, and contents. Cracks and seams shall be sealed to prevent leakage;

(3) Synthetic liners:

- (A) Synthetic liners and installation plans shall be approved by the Commissioner. A synthetic liner may not be approved by the Commissioner until the owner of the liner provides the Commissioner with a written confirmation of compatibility, and a written estimate of the life of the liner;
- (B) Synthetic liners shall have a minimum thickness of 30 mils (0.8 millimeters);
- (C) Synthetic liners shall be installed under the supervision of a qualified representative of the manufacturer or professional engineer, and all field constructed seams shall be tested, and repaired if necessary, in accordance with the manufacturer's recommendations;

(4) Soil liners. The surface soil shall be sealed, including the berm of an earthen dike with a sealing agent such as a sodium bentonite, attapulgite or a similar clay material. The liner shall be constructed in accordance with reliable engineering practices, to achieve a coefficient of permeability not to exceed  $1 \times 10^{-6}$  cm/sec, with a thickness of not less than six inches. The floor of the containment area shall be protected with a layer of gravel or crushed stone at least four inches thick placed on top of the clay liner;

(5) Exemptions:

- (A) A liner need not be installed directly under a storage container having a capacity of 100,000 U. S. gallons or more which has been constructed on site and put into use prior to the effective date of this Rule provided that one of the following alternative procedures are complied with, certified in writing by an official of the company which owns the container, and the certificate is filed with the Commissioner:
  - (i) Alternative 1 shall be as follows:
    - (I) A second bottom made of compatible material shall be constructed for the storage container. The second bottom shall be placed over the original bottom and over a layer of smooth, fine gravel or coarse sand having a minimum thickness of three inches;
    - (II) The original bottom of the storage container shall be tested for leaks before the sand layer and second bottom are installed. A record of the test shall be kept on file at the storage facility;
  - (II) The newly constructed bottom shall be tested for leaks before any fluid fertilizer is stored on the newly constructed bottom. A record of the test shall be kept on file at the storage facility or at the nearest local office from which the storage facility is administered;
  - (III) There shall be a system to readily detect leaks through the newly constructed bottom into the sand layer;
  - (V) The newly constructed bottom shall be tested at least once every five years for leaks. A record of the tests shall be kept at the storage facility;

(ii) Alternative 2 shall be as follows:

- (I) The container shall be emptied, cleaned, and tested for leaks. The walls and floor of the container shall be tested to assure that welds and thickness of steel plates are sound and adequate to contain the fertilizers. A record of the inspection, test results, and of any repairs made shall be submitted to the Commissioner and maintained by the owner or operator;
- (II) The interior floor and wall areas of the container shall be coated with an approved liner to inhibit corrosion. A record of this procedure shall be submitted to the Commissioner and maintained by the owner or operator;
- (III) An approved test for leaks and liner deterioration or metal corrosion shall be conducted every five years thereafter. A record of the test findings of indicated repairs and maintenance shall be maintained by the owner or operator;

(iii) Alternative 3 shall be as follows:

- (I) Monitoring devices shall be installed in angled borings under each tank. These monitoring devices shall constitute a leak detection system for each tank in advance of the point at which any leak would reach groundwater;
- (II) The number, length, and depth of each boring shall be determined on the basis of site characteristics. The array of monitoring devices under each tank shall constitute the best

practical early warning detection system for tank leakage;

(III) Each monitoring plan under this alternative shall be implemented only upon review and approval of the Commissioner;

(B) The secondary containment requirements under this Section do not apply to rail cars which are periodically moved from the storage facility;

(6) New construction of containers of 100,000 U. S. gallons or more:

(A) This Regulation shall apply to all storage containers of 100,000 U. S. gallons or more which are constructed or placed in service after the effective date of this Regulation;

(B) Liquid fertilizer storage containers with a capacity of 100,000 U. S. gallons or more shall be:

(i) Located within a diked and paved area designed to allow the containment and recovery of any discharged fertilizer material; and

(ii) Placed on a surface which has been sealed with asphalt, concrete, attapulgite clay, sodium bentonite, or other material approved by the Commissioner;

(C) The bottom surface of the storage container shall be elevated above the surrounding surface of the containment area so that the lowest point of the storage container shall be at least six inches above the sealed surface to permit installation of a leak detection system;

(D) The leak detection system shall consist of three or more perforated pipes or tile which shall:

(i) Be placed on the sealed surface and below the storage container;

(ii) Be placed parallel to each other on not more than ten foot centers; and

(iii) Extend to the outer edge of both sides of the tank;

(E) Any other detection system approved by the Commissioner;

(F) Each storage container shall be located within a secondary containment area which has been designed to permit both visual and sampling access to the leak detection system.

(e) Use of elephant rings in lieu of a diked containment area:

(1) Individual storage containers may be contained within a secondary storage container ("elephant ring") in lieu of a diked containment area. The "elephant ring" serves as a second containing wall in the event that the primary storage container develops a leak;

(2) Both the primary storage container and the "elephant ring" shall be fabricated of material compatible with each other and with the fertilizer being stored. Dissimilar metals between the primary storage container and the "elephant ring" contribute to electrolytic corrosion and such use is prohibited, unless provisions are made to prevent such corrosion;

(3) The height of the "elephant ring" wall shall not exceed four feet unless provisions are made for escape should flooding occur. The elephant ring shall contain a volume 15 percent greater than the volume contained in the primary storage container plus the volume displaced by the footings of any equipment (i.e., pumps, meters, etc.) placed within the secondary vessel;

(4) The "elephant ring" shall be free of leaks and structural defects. The base shall be protected from corrosion, both from inside and outside, and shall be underlain by a concrete pad or with eight inches of compacted gravel beneath four inches of compacted sand, or clay, or as recommended by the manufacturer of the "elephant ring" and approved by the Commissioner;

(5) All piping connections to the primary storage container shall be made over the wall of the "elephant ring" and shall be adequately supported and braced. Pumps and other fixtures, if located within the "elephant rings" containment structure, shall be placed on an elevated platform above the top of the elephant ring or otherwise protected from flooding;

(6) Accumulation of storm water and other material shall be pumped over the wall of the "elephant ring" by means of a sump pump within the secondary container, or by means of an exterior portable pump, and used for make-up water or proper disposal.

(d) Drainage from contained areas within dikes:

(1) Earthen or prefabricated diked area. An earthen or prefabricated diked area shall not have a relief outlet and valve. The base shall slope to a collecting spot where storm water can be discharged by pump over the berm, into a holding tank within a dike for use in the blending process, field applied at agronomic rates, or for proper

disposal in accordance with local requirements for disposal of storm water;

(2) Asphalt or concrete lined areas. Asphalt or concrete lined areas shall have a recessed catch drain running through the center of the base or, as an alternative, a sump as provided for in Subparagraph (c)(6) of this Rule.

*Statutory Authority G.S. 106-673.*

**.0207 STORAGE AND HANDLING OF DRY BULK FERTILIZER**

(a) Dry fertilizer materials shall be stored and handled in a manner to prevent pollution by minimizing losses to the air, surface water, ground water, or subsoil.

(b) Non-fluid fertilizers shall be stored inside a sound structure or device having a cover or roof top, sidewalls, and base sufficient to prevent contact with precipitation and surface waters. If stored outdoors, it shall be covered with a tarpaulin or other suitable covering to prevent seepage or runoff.

(c) All loading, unloading, mixing and handling of dry fertilizer, unless performed in the field of application, shall be done by using a containment method, device or structure of a size and design that will contain the fertilizer and operate to minimize emission of dust and or vapors beyond the facility boundaries. Any collected materials shall be applied at agronomic fertilizer rates or otherwise recycled.

(d) Containment devices or structures include, but are not limited to, the following methods:

- (1) Paving and curbing of outdoor handling areas with materials which allow for collection and recycle of spilled products. Such pad shall be designed to eliminate flow of surface water onto the pad;
- (2) Enclosing conveyors and equipping conveyors with dust control boots. Manually extendible boots may be adaptable to upright and auger type conveyors;
- (3) Daily cleanup of the outside areas when in use.

*Statutory Authority G.S. 106-673.*

**.0208 ACCIDENTAL DISCHARGE RESPONSE PLAN**

(a) The operator of a storage facility shall prepare a written "Discharge Response Plan" for the storage facility. The plan shall include:

- (1) The identity and telephone number of the persons or agencies who are to be contacted in the event of a discharge, includ-

ing persons responsible for the stored fertilizer; and,

- (2) For each bulk fertilizer or raw material stored at the facility, a current copy of the material safety data sheet will accompany the "discharge response plan";
- (3) An identification, by location and size of every storage container located at the storage facility, and the type of bulk fertilizer or raw material stored in each storage container; and,
- (4) For each type of bulk fertilizer stored at the facility, the procedures to be used in controlling and recovering, or otherwise responding to a discharge; and,
- (5) Procedures to be followed in using or disposing of a recovered discharge.

(b) The operator shall keep the plan required in this Rule current at all times.

(c) A copy of the plan required in this Rule shall be kept readily available at the storage facility and at the nearest local office from which the storage facility is administered, and shall be available for inspection and copying by the Commissioner or his agent.

(d) The operator of the storage facility shall inform the local fire and police departments, and other appropriate agencies of the existence of the plan required in this Rule and shall provide a current copy of the plan to the local fire and police departments.

*Statutory Authority G.S. 106-673.*

**.0209 INSPECTION AND MAINTENANCE**

(a) The operator of a storage facility shall routinely inspect and maintain storage facilities, storage containers and appurtenances to minimize the risk of a discharge.

(b) The operator shall inspect valves and other appurtenances for leakage at least weekly whenever facilities are being used for storage.

(c) When an "elephant ring" is used, inspection and maintenance of the primary storage container and of the "elephant ring" shall be conducted and records of inspections and maintenance maintained.

(d) Every secondary containment shall be inspected by the operator at intervals of not greater than six months and be maintained as necessary to assure compliance with these Rules.

(e) All secondary containment areas shall be maintained free of debris and foreign matter.

(f) Any spilled product shall be cleaned up daily.

(g) The operator of a storage facility shall routinely inspect and maintain loadout and unloading pads and catch basins. Such inspections shall

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be conducted at least weekly during operational periods and monthly during other periods.

*Statutory Authority G.S. 106-673.*

### **.0210 RECORD KEEPING**

(a) Records required to be maintained. The following records shall be prepared and maintained on file at every storage facility, or at the nearest local office from which the storage facility is administered:

- (1) A regular record of the fluid fertilizer levels in each storage container. The level in each storage container shall be measured and recorded at least monthly;
- (2) A record of abandoned underground containers, if any, as provided for in these Rules;
- (3) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance, and kept at the storage facility or at the nearest local office from which the storage facility is administered.

(b) Period required for maintenance of records:

- (1) Records required under Subparagraph (a)(2) of this Rule shall be maintained as permanent records;
- (2) All other required records shall be maintained for at least three years;
- (3) Records shall be available for inspection and copying by the Commissioner or his agent.

*Statutory Authority G.S. 106-673.*

### **.0211 COMPLIANCE SCHEDULE**

(a) All new facilities must be in compliance when installed or built.

(b) Underground storage must be in compliance by January 1, 1996.

(c) All other existing facilities must be in compliance by January 1, 1995.

*Statutory Authority G.S. 106-673.*

## **TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Economic and Community Development, Division of Employment and Training intends to amend rule(s) cited as 4 NCAC 20A .0002; and adopt rule(s) cited as 4 NCAC 20B .0901 - .0911.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on September 16, 1991 at the Division of Employment and Training, 111 Seaboard Avenue, Raleigh, N.C. 27604.*

**Comment Procedures:** Data, opinions and arguments may be submitted in writing to Mr. Joel New, 111 Seaboard Avenue, Raleigh, NC 27604, Attention: Louise Williams. All persons interested in this hearing are invited to attend. Persons interested in making oral presentation must contact Brenda Stephenson at (919) 733-6383.

**Editor's Note:** These Rules have been filed as temporary rules effective July 25, 1991 for a period of 180 days to expire on January 22, 1992.

## **CHAPTER 20 - EMPLOYMENT AND TRAINING**

### **SUBCHAPTER 20A - GENERAL PROVISIONS**

#### **.0002 APPLICABILITY OF RULES**

The rules in Chapter 20 govern the funding, selection, designation, administration and operation of grants, subgrants, contracts and subcontracts funded by federal and state employment and training grants administered through the Division. Provisions in these Rules apply to individuals and entities that receive or desire to receive these grant funds, directly or indirectly, except that employment relationships and agency relationships between the Division and its employees, employees of the Department's Administrative Hearing Office, employees of the Department's Office of Legal Affairs, the Private Sector Policy Coordinator and the designated attorney in the Office of the Attorney General for the division, shall not be considered contracts or subcontracts under Chapter 20.

*Statutory Authority G.S. 143B-10; 143B-276.*

### **SUBCHAPTER 20B - ADMINISTRATIVE PROVISIONS**

#### **SECTION .0900 - EMPLOYMENT AND TRAINING GRANT PROGRAM**

##### **.0901 PURPOSE**

The purpose of this state funded program is to make grants available to local agencies operating on behalf of the Private Industry Council serving Job Training Partnership Act service delivery areas. Funds shall be used to upgrade the foun-

dation of basic skills of the adult population and the existing workforce in North Carolina.

*Statutory Authority G.S. 143B-438.6.*

**.0902 GRANT APPLICATIONS**

Service delivery areas will submit plans for the use of these funds as part of the Job Training Plan, in accordance with Rule .0201 of this Sub-chapter.

*Statutory Authority G.S. 143B-438.6.*

**.0903 ALLOCATION OF GRANTS**

The Division may reserve and allocate up to five percent of funds available to the Employment and Training Grant Program for state and local administrative costs to implement the program. The Division of Employment and Training shall allocate employment and training grants to local agencies operating on behalf of the Private Industry Council serving Job Training Partnership Act service delivery areas based on the following formula:

- (1) One half of the funds shall be allocated on the basis of the relative excess number of unemployed individuals residing in each county as compared to the total excess number of unemployed individuals in all counties in the state for the most current 12 month data. "Excess number of unemployed" is defined as the number of unemployed individuals in excess of four and one-half percent of the civilian labor force in each county or the number of unemployed individuals in excess of four and one-half percent of the civilian labor force in each census tract within the county. The following methodology is used to determine the excess number of unemployed:
  - (a) For counties classified as having excess unemployment, the excess number of unemployed is determined by subtracting four and one-half percent of the civilian labor force from the number of unemployed individuals within the county. The difference equals the number of excess unemployed.
  - (b) In situations where the entire county is not classified as having excess unemployment, the excess number of unemployed is determined by census tract unemployment within the county. Census tract data is used to determine which subcounty areas qualify as areas of excess unemployment. In those subcounty areas classified as having excess unemployment (census tracts with four and one-half per-

cent or higher unemployment rates), four and one-half percent of the census tract labor force is subtracted from the number of unemployed individuals within the area of excess unemployment. The subcounty figures of excess number of unemployed within the county are then added together to determine the total excess number of unemployed within the county.

- (2) One half of the funds shall be allocated on the basis of the relative number of economically disadvantaged individuals within each county compared to the total number of economically disadvantaged individuals in the state. To determine the number of economically disadvantaged individuals within each county, data from the State Data Center in the Office of State Budget and Management, or from the federal decennial census, whichever is most recent, shall be used.

*Statutory Authority G.S. 143B-438.6.*

**.0904 COORDINATION WITH OTHER EMPLOYMENT AND TRAINING FUNDS**

These funds will become part of the strategic process implemented through the Governor's Coordination Criteria and the strategic planning process used for development of Job Training Plans by the Private Industry Councils. These PICs combine the private sector and public sector in an employment and training service delivery system that is based on local control, local problem solving, coordination of services and accountability.

*Statutory Authority G.S. 143B-438.6.*

**.0905 ELIGIBILITY**

Individuals served must be 18 years of age or older and must either meet the current Job Training Partnership Act definition of economically disadvantaged or meet the current definition for eligibility under Title III of the Job Training Partnership Act.

*Statutory Authority 143B-438.6.*

**.0906 USE OF FUNDS**

Services that may be provided include participant programs currently available under the federal Job Training Partnership Act that are appropriate for adults. Services include but will not be limited to on-the-job training, work experience, adult basic education, skill training, upgrading and retraining, counseling and screening for job placement, service corps, and sup-

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portive services necessary to enable individuals to participate in the program and to assist them in retaining employment for a period of one service year following completion of training. PICs have flexibility to use funds to fill gaps in current training/self-sufficiency services.

*Statutory Authority G.S. 143B-438.6.*

### **.0907 COST LIMITATIONS/CATEGORIES**

Administrative costs will be limited to five percent of allocation. Definition of administrative costs is:

- (1) ADMINISTRATIVE COSTS represent the cost associated with general management and support functions of an organization as well as secondary management and support functions which cannot be readily identified with a particular cost objective. Including but not limited to:
  - (a) Salaries and fringe benefits of staff not directly involved in providing training or services to participants.
  - (b) Related materials, supplies, equipment, office space, costs, and travel.
- (2) TRAINING COSTS. All non-administrative costs shall be charged as training costs.

*Statutory Authority G.S. 143B-438.6.*

### **.0908 REPORTING**

Reports for the ETGP funds will be made consistent with Division requirements. The Division will report quarterly to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The State Job Training Council shall receive quarterly reports on fund utilization.

*Statutory Authority G.S. 143B-438.6.*

### **.0909 PERFORMANCE STANDARDS**

Program performance will be evaluated by the Division using a process patterned after the system of performance standards and measures required by the JTPA. Local performance measures will be established during the planning process and may include: entered employment rate at termination; average wage at placement; welfare entered employment rate at termination; number of participants receiving GED/high school equivalency; and number of participants that return to full time school.

*Statutory Authority G.S. 143B-438.6.*

### **.0910 MONITORING/OVERSIGHT**

The Division will monitor for fiscal and programmatic compliance, for proper management, for civil rights compliance and for such other purposes as are reasonable for administration of these funds as specified in Rule .0502(a) and (b) of this Subchapter. Oversight includes both on-site visits and in-house reviews of participant and financial reports.

*Statutory Authority G.S. 143B-438.6.*

### **.0911 FUND AVAILABILITY**

Funds appropriated that are not expended at the end of the program year will not revert to the state treasury but will remain available to the Department for continued program purposes. A voluntary transfer process will be utilized to redistribute funds.

*Statutory Authority G.S. 143B-438.6.*

## **TITLE 10 - DEPARTMENT OF HUMAN RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-12 that the Medical Care Commission intends to amend rule(s) cited as 10 NCAC 3C .1902, .1917; 3H .0108, .0216, .1807; and adopt rule(s) cited as 10 NCAC 3C .0110, .1927 - .1932; 3Q .0205.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 9:30 a.m. on September 20, 1991 at Room 201, Council Building, 701 Barbour Drive, Raleigh, N.C. 27603.*

*Comment Procedures: Written comments should be submitted to Jackie Sheppard, 701 Barbour Drive, Raleigh, North Carolina 27603 by September 19, 1991. Oral comments may be given at the hearing.*

## **CHAPTER 3 - FACILITY SERVICES**

### **SUBCHAPTER 3C - LICENSING OF HOSPITALS**

#### **SECTION .0100 - PROCEDURE**

##### **.0110 ITEMIZED CHARGES**

(a) The facility shall either present an itemized list of charges to all discharged patients or the facility shall include on patients' bills which are not itemized notification of the right to request an itemized bill within 30 days of receipt of the non-itemized bill.

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(b) If requested, the facility shall present an itemized list of charges to each patient, or his responsible party.

(c) The itemized listing shall include, at a minimum, those charges incurred in the following service areas:

- (1) Room rates;
- (2) Laboratory;
- (3) Radiology and Nuclear Medicine;
- (4) Surgery;
- (5) Anesthesiology;
- (6) Pharmacy;
- (7) Emergency and ambulatory services;
- (8) Specialized Care;
- (9) Extended Care;
- (10) Prosthetic and Orthopedic appliances;
- (11) Other professional services.

(d) The facility shall indicate on the initial or renewal license application that patient bills are itemized, or that each patient or responsible party is formally advised of the patient's right to request an itemized listing within 30 days of receipt of a non-itemized bill.

*Statutory Authority G.S. 131E-91.*

### **SECTION .1900 - SUPPLEMENTAL RULES FOR THE LICENSURE OF THE SKILLED: INTERMEDIATE: DOMICILIARY BEDS IN A HOSPITAL**

#### **.1902 DEFINITIONS**

The following definitions shall apply throughout this Section, unless text otherwise clearly indicates to the contrary:

- (1) "Accident" means something occurring by chance or without intention which has caused physical or mental harm to a patient, resident or employee.
- (2) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion or other means.
- (3) "Administrator" means the person who has authority for and is responsible to the governing board for the overall operation of a facility.
- (4) "Brain injury extended care" is defined as a multi-discipline maintenance program for patients who have incurred brain damage caused by external physical trauma and who have completed a primary course of rehabilitative treatment and have reached a point of no gain or progress for more than three consecutive months. Services are provided through a medically supervised interdisciplinary process and are directed toward restoring the individual to the optimal level of physical, cognitive and behavioral functioning.

(5) ~~(4)~~ "Capacity" means the maximum number of patient or resident beds which the facility is licensed to maintain at any given time. This number shall be determined as follows:

(a) Bedrooms shall have minimum square footage of 100 square feet for a single bedroom and 80 square feet per patient or resident in multi-bedded rooms. This minimum square footage shall not include space in toilet rooms, washrooms, closets, vestibules, corridors, and built-in furniture.

(b) Dining, recreation and common use areas available shall total no less than 25 square feet per bed for nursing care beds and no less than 30 square feet per bed for domiciliary home beds. Such space must be contiguous to patient and resident bedrooms.

(6) ~~(5)~~ "Combination Facility" means a "combination home" as defined in the Nursing Home Licensure Act G.S. 131E-101 (1).

(7) ~~(6)~~ "Convalescent Care" means care given for the purpose of assisting the patient or resident to regain health or strength.

(8) ~~(7)~~ "Department" means the North Carolina Department of Human Resources.

(9) ~~(8)~~ "Director of Nursing" means the nurse who has authority and direct responsibility for all nursing services and nursing care.

(10) ~~(9)~~ "Dispense" means preparing and packaging a prescription drug or device in a container and labeling the container with information required by state and federal law. Filling or refilling drug containers with prescription drugs for subsequent use by a patient is "dispensing". Providing quantities of unit dose prescription drugs for subsequent administration is "dispensing".

(11) ~~(10)~~ "Drug" means substances:

- (a) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to any of them;
- (b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (c) intended to affect the structure or any function of the body of man or other animals, i.e., substances other than food; and
- (d) intended for use as a component of any article specified in (a), (b), or (c) of this Subparagraph.

(12) ~~(11)~~ "Duly Licensed" means holding a current and valid license as required under the General Statutes of North Carolina.

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(13) ~~(12)~~ "Existing Facility" means a licensed facility; or a proposed facility, proposed addition to a licensed facility or proposed remodeled licensed facility that will be built according to plans and specifications which have been approved by the Department through the preliminary working drawings stage prior to the effective date of this Rule.

(14) ~~(13)~~ "Exit Conference" means the conference held at the end of a survey, inspection or investigation, but prior to finalizing the same, between the Department's representatives who conducted the survey, inspection or investigation and the facility administration representative(s).

(15) ~~(14)~~ "Incident" means an intentional or unintentional action, occurrence or happening which is likely to cause or lead to physical or mental harm to a patient, resident or employee.

(16) ~~(15)~~ "Licensed Practical Nurse" means a nurse who is duly licensed as a practical nurse under G.S. 90, Article 9A.

(17) ~~(16)~~ "Licensee" means the person, firm, partnership, association, corporation or organization to whom a license has been issued.

(18) ~~(17)~~ "Medication" means drug as defined in (12) of this Rule.

(19) ~~(18)~~ "New Facility" means a proposed facility, a proposed addition to an existing facility or a proposed remodeled portion of an existing facility that is constructed according to plans and specifications approved by the Department subsequent to the effective date of this Rule. If determined by the Department that more than one half of an existing facility is remodeled, the entire existing facility shall be considered a new facility.

(20) ~~(19)~~ "Nurse Aide" means any person regardless of working title who is qualified to provide nursing care under the supervision of a licensed nurse and is registered as a nurse aide in a nurse aide registry approved by the Department and is listed with the Board of Nursing central registry.

(21) ~~(20)~~ "Nurse Aide Trainee" means an individual in training to become a nurse aide.

(22) ~~(21)~~ "Nursing Facility" means that portion of a nursing home certified under Title XIX of the Social Security Act (Medicaid) as in compliance with federal program standards for nursing facilities. It is often used as synonymous with the term "nursing home" which is the usual prerequisite level of state licensure for nursing facility (NF) certification and Medicare skilled nursing facility (SNF) certification.

(23) ~~(22)~~ "Nurse in Charge" means the nurse to whom duties for a specified number of patients and staff for a specified period of time have been delegated, such as for Unit A on the 7-3 or 3-11 shift.

(24) ~~(23)~~ "On Duty" means personnel who are awake, dressed, responsive to patient needs and physically present in the facility performing assigned duties.

(25) ~~(24)~~ "Patient" means any person admitted for nursing care.

(26) ~~(25)~~ "Physician" means a person licensed under G.S. Chapter 90, Article 1 to practice medicine in North Carolina.

(27) ~~(26)~~ "Qualified Dietitian" means a person who meets the standards and qualification established by the Committee on Professional Registration of the American Dietetic Association.

(28) ~~(27)~~ "Registered Nurse" means a nurse who is duly licensed as a registered nurse under G.S. 90, Article 9A.

(29) ~~(28)~~ "Resident" means any person admitted for care to a domiciliary home.

(30) ~~(29)~~ "Sitter" means an individual employed to provide companionship and social interaction to a particular resident or patient, usually on a private duty basis.

(31) ~~(30)~~ "Supervisor-in-Charge" means a duly licensed nurse to whom supervisory duties have been delegated by the Director of Nursing.

(32) "Ventilator dependence" is defined as physiological dependency by a patient on the use of a ventilator for more than eight hours a day.

Authority G.S. 131E-79; 42 U.S.C. 1396r(a).

### .1917 MEDICATION ADMINISTRATION

(a) A licensed facility shall have policies and procedures governing the administration of medications which shall be enforced and implemented by administration and staff. Policies and procedures shall include, but shall not be limited to:

- (1) automatic stop orders for treatment and drugs;
- (2) accountability of controlled substances as defined by the North Carolina Controlled Substances Act, G.S. 90, Article 5;
- (3) dispensing and administering behavior modifying drugs, such as hypnotics, sedatives, tranquilizers, antidepressants and other psychotherapeutic agents; insulin; intravenous fluids and medications; cardiovascular regulating drugs; and antibiotics.

(b) All medications or drugs and treatments shall be administered and discontinued in accordance with signed physician's orders which are recorded in the patient's or resident's medical record.

- (1) Only physicians, registered nurses, licensed practical nurses or physician assistants, if in accordance with the assistant's approved practice, shall administer medications.
- (2) To ensure accountability, any medication shall be administered by the same licensed personnel who prepared the dose for administration. This Rule does not apply to the dispensing of medications from a pharmacy utilizing a unit of use drug delivery system.
- (3) Medications shall be administered within a half hour prior to or half hour after the prescribed time for administration unless precluded by emergency situations.
- (4) The person administering medications shall identify each patient or resident in accordance with the facility's policies and procedures prior to administering any medication.
- (5) Medication administered to a patient or resident shall be recorded in the patient's or resident's medication administration record immediately after administration in accordance with the facility's policies and procedures.
- (6) Omission of medication and the reason for the omission shall be indicated in the patient's or resident's medical record.
- (7) The person administering medications which are ordered to be given as needed (PRN) shall justify the need for the same in the patient's or resident's medical record.
- (8) Medication administration records shall provide identification of the drug and strength of drug, quantity of drug administered, name of administering employee, title of employee and time of administration.

(c) Self-administration of medications shall be permitted only if prescribed by a physician and directions are printed on the container.

(d) The administration of one patient's or resident's medications to another patient or resident is prohibited except in the case of an emergency. In the event of such an emergency, steps shall be taken to assure that the borrowed medications shall be replaced promptly and so documented.

(e) Verbal orders shall be countersigned by a physician within five days of issuance.

*Statutory Authority G.S. 131E-79.*

**.1927 BRAIN INJURY EXTENDED CARE PHYSICIAN SERVICES**

In nursing facility beds designated as brain injury extended care units an attending physician shall be responsible for a patient's specialized extended care program. The intensity of the program requires that there shall be direct patient contact by a physician at least once a week and more often as the patient's condition warrants. Each patient's multi-discipline extended care program shall be developed and implemented under the supervision of a physiatrist or a physician of equivalent training and experience who shall be the attending physician. If a physiatrist is not available on a regular basis the facility shall provide for weekly attending medical management of the patient, with oversight for the patient's multi-discipline extended care program provided by a qualified consultant physician who visits patients monthly, makes recommendations for and approves the interdisciplinary care plan, and provides consultation as requested to the attending physician. The attending physician shall actively participate in individual case conferences or care planning sessions and shall complete and sign discharge summaries and records within 15 days of patient discharge. When patients are to be discharged to either another health care facility or a residential setting the attending physician shall assure that the patient has been provided with a discharge plan which incorporates optimum utilization of community resources and post discharge continuity of care and services.

*Statutory Authority G.S. 131E-79.*

**.1928 BRAIN INJURY EXTENDED CARE PROGRAM REQUIREMENTS**

(a) The general requirements in this Subchapter shall apply when applicable, but brain injury extended care units shall meet the supplement requirements in this Rule and Rule .1929 of this Section. Brain injury extended care is a multi-discipline intensive maintenance program for patients who have incurred brain damage caused by external physical trauma and who have completed a primary course of rehabilitative treatment and have reached a point of no gain or progress for more than three consecutive months. Services are provided through a medically supervised interdisciplinary process as provided in Rule .1927 of this Section and are directed toward maintaining the individual at the optimal level of physical, cognitive and behavioral functioning. Following are the minimum require-

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ments for specific services that may be necessary to maintain the individual at optimum level:

- (1) Overall supervisory responsibility for brain injury extended care services shall be assigned to a registered nurse with one year experience.
- (2) Physical Therapy shall be provided by a physical therapist with a current valid North Carolina license working in the brain injury unit a minimum of 20 hours per week plus an additional two hours per week for each patient in excess of ten. (e.g.: 20 patients, 40 hours per week) The assistance of a physical therapy assistant or aide shall be provided at the rate of two hours per week per active physical therapy patient on a facility wide basis with a minimum of 40 hours per week regardless of how small the census.
- (3) Occupational therapy shall be provided by an occupational therapist with a current valid North Carolina license working in the unit 20 hours per week plus an additional two hours per week for each patient in excess of ten. (e.g.: 20 patients, 40 hours per week) The assistance of an occupational therapy aide or assistant shall be provided at the rate of two hours per week per patient with a minimum of one full time aide.
- (4) Clinical nutrition services shall be provided by a qualified dietician with two years clinical training and experience in nutrition. Clinical nutrition services shall include:
  - (A) Assessing the appropriateness of the ordered diet for conformance with each patient's physiological and pharmacological condition.
  - (B) Evaluate each patient's laboratory data in relation to nutritional status and hydration.
  - (C) Apply technical knowledge of feeding tubes, pumps and equipment to each patient's specialized needs.
- (5) Clinical Social Work shall be provided by a Social Worker meeting the requirements of Rule .1923 of this Section.
- (6) Recreation therapy, when required, shall be provided by a clinician eligible for certification as a therapeutic recreation specialist by the State Board of Therapeutic Recreation Certification. In the event that a qualified specialist is not locally available, alternate treatment modalities shall be developed by the occupational therapist and reviewed by the attending physician.
- (7) Speech therapy, when required, shall be provided by a clinician with a current valid license in speech pathology issued by the State Board of Audiology and Speech Pathology.
- (8) Respiratory therapy, when required, shall be provided and supervised by a respiratory therapist currently registered by the National Board for Respiratory Care.
  - (b) Each patient's program shall be governed by a multi-discipline treatment plan incorporating and expanding upon the health plan required under Rules .1908 and .1909 of this Section. The plan is to be initiated on the first day of admission. Upon completion of baseline data development and an integrated interdisciplinary assessment the initial treatment plan is to be expanded and finalized within 14 days of admission. Through an interdisciplinary process the treatment plan shall be reviewed at least monthly and revised as appropriate. In executing the treatment plan the interdisciplinary team shall be the major decision-making body and shall determine the goals, process, and time frames for accomplishment of each patient's program. Disciplines to be represented on the team shall be medicine, nursing, clinical pharmacy and all other disciplines directly involved in the patient's treatment or treatment plan.
  - (c) Each patient's overall program shall be assigned to an individually designated program manager. The program manager shall be responsible for:
    - (1) coordinating the development, implementation and periodic review of the patient's treatment plan;
    - (2) preparing a monthly summary of the patient's progress;
    - (3) cultivating the patient's participation in the program;
    - (4) general supervision of the patient during the course of treatment;
    - (5) evaluating appropriateness of the treatment plan in relation to the attainment of stated goals; and
    - (6) assuring that discharge decisions and arrangements for post discharge follow-up are properly made.
  - (d) For each 20 patients or fraction thereof dedicated treatment facilities and equipment shall be provided as follows:
    - (1) A speech therapy room with dimensions which equal or exceed 175 square feet and which is so designed and maintained as to permit free movement of three fully opened reclining wheelchairs.
    - (2) Two occupational/physical therapy rooms, each with dimensions which equal

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or exceed 600 square feet. Each room shall be equipped with three double size mat tables, one tilt table, and one set of free standing or foldaway parallel bars. Each room is to be plumbed with a sink suitable for hand washing. Each room shall open directly to a wheelchair accessible water closet.

(3) Access to one full reclining wheelchair per patient.

(4) Special physical therapy and occupational therapy equipment for use in fabricating positioning devices for beds and wheelchairs including splints, casts, cushions, wedges, and bolsters.

(5) There shall be roll-in bath facilities with a dressing area available to all patients which shall afford maximum privacy to the patient.

*Statutory Authority G.S. 131E-79.*

### .1929 SPECIAL NURSING REQUIREMENTS BRAIN INJURY EXTENDED CARE

Direct care nursing personnel staffing ratios (NH PD) established in Rule .1912 of this Section shall not be applied to nursing services for patients who require brain injury extended care. When such services are provided the table in this Rule establishes the minimum acceptable direct care nursing staff ratios per patient (NH P). It is also required that regardless of how low the patient census the direct care nursing staff shall not fall below a registered nurse and a nurse aide 1 at any time during a 24 hour period. The minimum direct care nursing staff ratios are:

STAFF POSITION	1st SHIFT STAFF RATIO	2nd SHIFT STAFF RATIO	3rd SHIFT STAFF RATIO	DAILY REQUIREMENT
RN	.8 NH P	.4 NH P	.4 NH P	1.6 NH PD
LPN	.8 NH P	.8 NH P	.4 NH P	2.0 NH/PD
NA 1	.75 NH P	.75 NH P	.4 NH P	1.9 NH/PD
NA (Trainee)	0	0	0	0

*Statutory Authority G.S. 131E-79.*

### .1930 VENTILATOR DEPENDENCE

The general requirements in this Subchapter shall apply when applicable. In addition, facilities having patients requiring the use of ventilators for more than eight hours a day must meet the following requirements:

(1) Respiratory therapy shall be provided and supervised by a respiratory therapist currently registered by the National Board for Respiratory Care. The respiratory therapist shall:

- make, as a minimum, weekly on-site assessments of each patient receiving ventilator support with corresponding progress notes;
- be on-call 24 hours daily; and
- assist the pulmonologist and nursing staff in establishing ventilator policies and procedures, including emergency policies and procedures.

(2) Direct nursing care staffing shall be in accordance with Rule .1912 of this Section.

*Statutory Authority G.S. 131E-79.*

### .1931 PHYSICIAN SERVICES FOR VENTILATOR DEPENDENT PATIENTS

Hospitals with nursing facility beds with ventilator dependent care patients shall contract with a physician who is licensed to practice in North Carolina with Board Certification and who has specialized training in pulmonary medicine. This physician shall be responsible for respiratory services and shall:

- establish, with the respiratory therapist and nursing staff, appropriate ventilator policies and procedures, including emergency procedures;
- assess each ventilator patient's status at least monthly with corresponding progress notes;
- be available on an emergency basis; and
- participate in individual patient case planning.

*Statutory Authority G.S. 131E-79.*

### .1932 EMERGENCY ELECTRICAL SERVICE

- A minimum of one dedicated emergency branch circuit per bed is required for ventilator dependent patients in addition to the normal

system receptacle at each bed location required by the National Electrical Code. This emergency circuit shall be provided with a minimum of two duplex receptacles identified for emergency use. Additional emergency branch circuits/receptacles shall be provided where the electrical life support needs of the patient exceed the minimum requirements stated in this Paragraph. Each emergency circuit serving ventilator dependent patients shall be fed from the automatically transferred critical branch of the essential electrical system. This Paragraph shall apply to both new and existing facilities.

(b) Heating equipment provided for ventilator dependent patient bedrooms shall be connected to the critical branch of the essential electrical system and arranged for delayed automatic or manual connection to the emergency power source if the heating equipment depends upon electricity for proper operation. This Paragraph shall apply to both new and existing facilities.

(c) Task lighting connected to the automatically transferred critical branch of the essential electrical system shall be provided for each ventilator dependent patient bedroom. This Paragraph shall apply to both new and existing facilities.

*Statutory Authority G.S. 131E-79.*

#### **SUBCHAPTER 3II - RULES FOR THE LICENSING OF NURSING HOMES**

##### **SECTION .0100 - GENERAL INFORMATION**

###### **.0108 DEFINITIONS**

The following definitions will apply throughout this Subchapter:

- (1) "Accident" means an unplanned or unwanted event resulting in the injury or wounding, no matter how slight, of a patient or other individual.
- (2) "Adequate" means, when applied to various areas services, that the services are at least satisfactory in meeting a referred to need when measured against contemporary professional standards of practice.
- (3) "Administrator" means the person who has authority for and is responsible for the overall operation of a facility.
- (4) "Appropriate" means right for the specified use or purpose, suitable or proper when used as an adjective. When used as a transitive verb it means to set aside for some specified exclusive use.
- (5) "Brain injury extended care" is defined as a multi-discipline maintenance program for patients who have incurred brain damage caused by external physical trauma and who

have completed a primary course of rehabilitative treatment and have reached a point of no gain or progress for more than three consecutive months. Services are provided through a medically supervised inter-disciplinary process and are directed toward restoring the individual to the optimal level of physical, cognitive and behavioral functions.

- (6) (4) "Capacity" means the maximum number of patient or resident beds for which the facility is licensed to maintain at any given time. This number shall be determined as follows:
  - (a) Bedrooms shall have minimum square footage of 100 square feet for a single bedroom and 80 square feet per patient or resident in multi-bedded rooms. This minimum square footage shall not include space in toilet rooms, washrooms, closets, vestibules, corridors, and built-in furniture.
  - (b) Dining, recreation and common use areas available shall total no less than 25 square feet per bed for nursing beds and no less than 30 square feet per bed for domiciliary home beds.
- (7) (6) "Combination Facility" means a combination home as defined in G.S. 131E-101.
- (8) (7) "Convalescent Care" means care given for the purpose of assisting the patient or resident to regain health or strength.
- (9) (8) "Department" means the North Carolina Department of Human Resources.
- (10) (9) "Director of Nursing" means the nurse who has authority and direct responsibility for all nursing services and nursing care.
- (11) (10) "Drug" means substances:
  - (a) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to any of them;
  - (b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
  - (c) intended to affect the structure or any function of the body of man or other animals, i.e., substances other than food; and
  - (d) intended for use as a component of any article specified in (a), (b), or (c) of this Subparagraph.
- (12) (11) "Duly Licensed" means holding a current and valid license as required under the General Statutes of North Carolina.
- (13) (12) "Existing Facility" means a licensed facility; or a proposed facility, proposed addition to a licensed facility or proposed remodeled licensed facility that will be built

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according to plans and specifications which have been approved by the Department through the preliminary working drawings stage prior to the effective date of this Rule.

(14) ~~(13)~~ "Exit Conference" means the conference held at the end of a survey, inspection or investigation, but prior to finalizing the same, between the Department's representatives who conducted the survey, inspection or investigation and the facility administration representative.

(15) ~~(14)~~ "Incident" means an unplanned or unwanted event which has not caused a wound or injury to any individual but which has the potential for such should the event be repeated.

(16) ~~(15)~~ "Licensed Practical Nurse" means a nurse who is duly licensed as a practical nurse under G.S. 90, Article 9A.

(17) ~~(16)~~ "Licensee" means the person, firm, partnership, association, corporation or organization to whom a license has been issued.

(18) ~~(17)~~ "Life Care Center" means an institution, firm, association, organization, corporation, partnership, individual or other business which advertises to the public or provides continuing care to individuals for life including retirement, domiciliary, and nursing care facilities, from the time of admission to the time of death. Such continuing care is furnished pursuant to a continuing care agreement and to individuals not related by consanguinity or affinity to the provider.

(19) ~~(18)~~ "Medication" means drug as defined in (11) of this Rule.

(20) ~~(19)~~ "New Facility" means a proposed facility, a proposed addition to an existing facility or a proposed remodeled portion of an existing facility that is constructed according to plans and specifications approved by the Department subsequent to the effective date of this Rule. If determined by the Department that more than half of an existing facility is remodeled, the entire existing facility shall be considered a new facility.

(21) ~~(20)~~ "Nurse Aide" means any person regardless of working title who is qualified to provide nursing care under the supervision of a licensed nurse and is registered as a nurse aide in a nurse aide registry approved by the Department and is listed with the Board of Nursing Central Registry.

(22) ~~(21)~~ "Nurse Aide Trainee" means an individual in training to become a nurse aide.

(23) ~~(22)~~ "Nursing Facility" means that portion of a nursing home certified under Title XIX

of the Social Security Act (Medicaid) as in compliance with federal program standards for nursing facilities. It is often used as synonymous with the term "nursing home" which is the usual prerequisite level of state licensure for nursing facility (NF) certification and Medicare skilled nursing facility (SNF) certification.

(24) ~~(23)~~ "Nurse in Charge" means the nurse to whom duties for a specified number of patients and staff for a specified period of time have been delegated, such as for Unit A on the 7-3 or 3-11 shift.

(25) ~~(24)~~ "On Duty" means personnel who are awake, dressed, responsive to patient needs and physically present in the facility performing assigned duties.

(26) ~~(25)~~ "Operator" means the owner of the nursing home business.

(27) ~~(26)~~ "Patient" means any person admitted for nursing care.

(28) ~~(27)~~ "Provisional License" means an amended license recognizing significantly less than full compliance with the licensure rules. It is applicable to new licensees who are not yet fully operable under the licensee's control or to licensees with serious compliance problems.

(29) ~~(28)~~ "Physician" means a person licensed under G.S. Chapter 90, Article 1 to practice medicine in North Carolina.

(30) ~~(29)~~ "Qualified Dietitian" means a person who meets the standards and qualification established by the Commission on Dietetic Registration of the American Dietetic Association.

(31) ~~(30)~~ "Registered Nurse" means a nurse who is duly licensed as a registered nurse under G.S. 90, Article 9A.

(32) ~~(31)~~ "Resident" means any person admitted for care to a domiciliary home part of a combination home as defined in G.S. 131E-101.

(33) ~~(32)~~ "Sitter" means an individual employed to provide companionship and social interaction to a particular patient, usually on a private duty basis.

(34) ~~(33)~~ "Supervisor-in-Charge (domiciliary home)" means any employee to whom supervisory duties for the domiciliary home portion of a combination home have been delegated by either the Administrator or Director of Nursing.

(35) ~~(34)~~ "Ventilator dependence" is defined as physiological dependency by a patient on the use of a ventilator for more than eight hours a day.

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Authority G.S. 131E-104; 42 U.S.C. 1396r(a).

### SECTION .0200 - LICENSURE

#### .0216 DENIAL, AMENDMENT, OR REVOCATION OF LICENSE

(a) The Department shall deny any licensure application upon becoming aware that the applicant is not in compliance with any applicable provision of the Certificate of Need ~~statutes G.S. 131E, law located in Article 9 of Chapter 131E of the General Statutes~~ and the rules adopted under it, ~~that law~~.

(b) Upon becoming aware that a licensee has ceased to substantially comply with the rules of this Subchapter, the Department shall give written notice to the licensee of the nature of all deficiencies and require the licensee to comply with the rules or submit an acceptable plan of correction within ten days of receipt of this notice. The Department may amend a license by reducing it from a full license to a provisional license whenever the Department finds that:

- (1) the licensee has substantially failed to comply with the provisions of Part A of Article 6 of Chapter 131E of the General Statutes and the rules promulgated under that Part; and
- (2) there is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- (3) there is a reasonable probability that the licensee will be able thereafter to remain in compliance with the nursing home licensure rules for the foreseeable future.

The Department shall give the licensee written notice of the amendment of his license. This notice shall be given by registered or certified mail or by personal service and shall set forth the reasons for the action.

(c) If the licensee fails to submit a plan of correction or fails to correct the deficiencies set forth in the notice within a time period acceptable to the Department, the Department shall notify the licensee that its license has been reduced to that of provisional. The provisional license shall terminate on a day specified in the notice. The provisional license shall be effective immediately upon its receipt by the licensee and must be posted in a prominent location, accessible to public view, within the licensed premises in lieu of the full license. The provisional license shall remain in effect until:

- (1) the Department restores the licensee to full licensure status; or
- (2) the Department revokes the licensee's license; or
- (3) the end of the licensee's licensure year.

If a licensee has a provisional license at the time that the licensee submits a renewal application, the license, if renewed, shall also be a provisional license unless the Department determines that the licensee can be returned to full licensure status. A decision to issue a provisional license is stayed during the pendency of an administrative appeal and the licensee may continue to display its full license during the appeal.

(d) Appeals from the Department's decision to deny or revoke a license or to issue a provisional license shall be in accordance with the Administrative Procedure Act, G.S. Chapter 150B. The Department may revoke a license whenever:

- (1) The Department finds that:
  - (A) the licensee has substantially failed to comply with the provisions of Parts A and B of Article 6 of Chapter 131E of the General Statutes and the rules promulgated under those parts; and
  - (B) it is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- (2) The Department finds that:
  - (A) the licensee has substantially failed to comply with the provisions of Parts A and B of Article 6 of Chapter 131E of the General Statutes; and
  - (B) although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with nursing home licensure rules for the foreseeable future; or
- (3) The Department finds that there has been any failure to comply with the provisions of Parts A and B of Article 6 of Chapter 131E of the General Statutes and the rules promulgated under those parts that endangers the health, safety or welfare of the patients in the facility.

The issuance of a provisional license is not a procedural prerequisite to the revocation of a license pursuant to Subparagraphs (d)(1), (2) and (3) of this Rule.

Statutory Authority G.S. 131E-104.

### SECTION .1800 - MECHANICAL: ELECTRICAL: PLUMBING

#### .1807 OTHER

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(a) In general patient areas, each room shall be served by at least one calling station and each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register with the floor staff and shall activate a visible signal in the corridor at the patient's or resident's door. In multi-corridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. A nurses' call emergency button shall be provided for patients' and residents' use at each patient and resident toilet, bath, and shower room.

(b) At least one telephone shall be available in each area to which patients are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

(c) General outdoor lighting shall be provided adequate to illuminate walkways and drive.

(d) ~~The hot water system shall be adequate to provide~~

	Patient Areas	Dietary	Laundry
Gallons per hour per bed	6 $\frac{1}{2}$	4	4 $\frac{1}{2}$
Maximum temperature degrees F.	110	110	110

Temperature shall not fall more than 10 degrees below the maximum.

(d) A flow of hot water within safety ranges specified as follows:

Patient Areas : 6  $\frac{1}{2}$  gallons per hour per bed and at a temperature of 100° - 116° F; and

Dietary Services : 4 gallons per hour per bed and at a temperature of 130° - 140° F; and

Laundry Areas : 4  $\frac{1}{2}$  gallons per hour per bed and at a temperature of 130° - 140° F.

(e) Plumbing systems shall meet the requirements of the North Carolina State Plumbing Code.

(f) The Administrator shall assure that isolation facilities as approved by the Department shall be available and used for any patient admitted or retained with a communicable disease.

Statutory Authority G.S. 131E-104.

### SUBCHAPTER 3Q - LICENSING OF AMBULATORY SURGICAL FACILITIES

#### SECTION .0200 - LICENSING PROCEDURES

##### .0205 ITEMIZED CHARGES

(a) The facility shall either present an itemized list of charges to all discharged patients or the facility shall include on patients' bills which are not itemized notification of the right to request an itemized bill within 30 days of receipt of the non-itemized bill.

(b) If requested, the facility shall present an itemized list of charges to each patient, or his responsible party.

(c) The listing shall include, at a minimum, those charges incurred in the following service areas:

- (1) Surgery (facility fee);
- (2) Anesthesiology;
- (3) Pharmacy;
- (4) Laboratory;
- (5) Radiology;
- (6) Prosthetic and Orthopedic appliances;

(7) Other professional services.

(d) The facility shall indicate on the initial or renewal license application that patient bills are itemized, or that each patient or responsible party is formally advised of the patient's right to request an itemized listing within 30 days of receipt of a non-itemized bill.

Statutory Authority G.S. 131E-91.

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*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources' Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 50B .0302 and .0403.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on September 16, 1991 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 297, Raleigh, North Carolina 27603.*

*Comment Procedures: Written comments concerning this amendment must be submitted by September 16, 1991, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603, ATTN.: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement is available upon written request from the same address.*

## **CHAPTER 50 - MEDICAL ASSISTANCE**

### **SUBCHAPTER 50B - ELIGIBILITY DETERMINATION**

#### **SECTION .0300 - CONDITIONS FOR ELIGIBILITY**

##### **.0302 UNITED STATES CITIZEN**

(a) The services covered by Medicaid for eligible clients shall be based on citizenship or alien status.

(b) The following groups who meet all other eligibility criteria shall be eligible for all Medicaid services in the state plan:

- (1) United States citizens; or
- (2) Aliens lawfully admitted for permanent residence as described in section 3212.2 of the State Medicaid Manual published by the United States Health Care Financing Administration; or
- (3) Aliens who are Permanent Residents Under Color of Law as designated in section 3212.4 of the State Medicaid Manual published by the United States Health Care Financing Administration; or
- (4) Aliens granted legal temporary residence status (LTR) under the Immigration and Nationality Act (Title 8 U.S.C.), and later adjusted to legal permanent residence status (LPR) under Title 8 U.S.C., who are:
  - (A) Under the age of 18 years of age; or
  - (B) Designated by Immigration and Naturalization Services as Cuban Haitian entrants, or
  - (C) Aged, or
  - (D) Blind, or
  - (E) Disabled.

(c) Aliens not identified in Paragraph (b) shall be eligible for Medicaid for emergency services if:

- (1) The alien has a requires emergency services after the sudden onset of a medical

condition (including labor and delivery) that manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could result in:

- (A) Placing the patient's health in serious jeopardy; or
- (B) Serious impairment to bodily functions; or
- (C) Serious dysfunction of any bodily organ or part.

(2) Shall meet all other eligibility requirements for Medicaid.

*Authority G.S. 108A-54; G.S. 150B-14(c); 42 C.F.R. 435.402; 42 U.S.C. 1396b(v); 8 U.S.C. 1161; 8 U.S.C. 1255a.*

## **SECTION .0400 - BUDGETING PRINCIPALS**

### **.0403 RESERVE**

(a) The value of resources held by the client or by a financially responsible person shall be considered available to the client in determining countable reserve for the budget unit.

(b) Jointly owned resources shall be counted as follows:

- (1) The value of resources owned jointly with a non-financially responsible person who is a recipient of another public assistance budget unit shall be divided equally between the budget units;
- (2) The value of liquid assets and personal property owned jointly with a non-financially responsible person who is not a client of another public assistance budget unit shall be available to the budget unit member if he can dispose of the resource without the consent and participation of the other owner or the other owner consents to and, if necessary, participates in the disposal of the resource;
- (3) The client's share of the value of real property owned jointly with a non-financially responsible person who is not a member of another public assistance budget unit shall be available to the budget unit member if he can dispose of his share of the resource without the consent and participation of the other owner or the other owner consents to and, if necessary, participates in the disposal of the resource.
- (e) The terms of a separation agreement, divorce decree, will, deed or other legally binding agreement or legally binding order shall take precedence over ownership of resources as stated in (a) and (b) of this Rule.

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(d) The reserve limit for the budget unit for aged, blind or disabled cases shall be determined as follows:

- (1) The reserve limit for two persons shall be allowed when spouses live together in a private living situation or when the couple share the same room in long term care;
- (2) Allow the reserve limit for one person for the Community Alternative Program (CAP) client with a spouse at home and only count the resources that are available to the CAP client in determining his countable reserve;
- (3) The reserve limit for one person is allowed for the client who is in long term care and the spouse remains in the home;
- (4) The reserve allowance for one person is allowed for the client who is in long term care and the spouse is in domiciliary care;
- (5) The reserve limit allowed for a blind or disabled minor child who lives with his parent or parents or is temporarily absent includes the child and the parent or parents with whom the child lives;
- (6) The reserve limit allowed for a blind or disabled dependent child under age 19 who is in long term care shall include only the child if his care and treatment are expected to exceed 12 months, as certified by the child's physician.

(e) Countable resources for Family and Children's related cases will be determined as follows:

- (1) The resources of a spouse, who is not a stepparent, shall be counted in the budget unit's reserve allowance if the spouses live together or one spouse is temporarily absent in long term care and the spouse is not a member of another public assistance budget unit;
- (2) The resources of a client and a financially responsible parent or parents shall be counted in the budget unit's reserve limit if the parents live together or one parent is temporarily absent in long term care and the parent is not a member of another public assistance budget unit;
- (3) The resources of the parent or parents shall not be considered if a child under age 21 requires care and treatment in a medical institution and his physician certifies that the care and treatment are expected to exceed 12 months.

(f) The homesite shall be excluded from countable resources when it is the principal place of residence for the client. The homesite is defined as the house and lot, plus all buildings on the lot, in the city or the house and the land the

house is on, to a maximum of one acre, plus all buildings on the acre, in a rural area.

- (1) For all aged, blind or disabled cases and medically needy families and children related cases, in addition to the principal place of residence, the homesite shall include real property contiguous to the home with a tax value of less than twelve thousand dollars (\$12,000).
- (2) For all aged, blind or disabled cases the equity in the homesite shall be excluded when the client is in long term care and his spouse, minor children or adult disabled children remain in the home or a physician has certified in writing that the client will return home within six months from the date of entry into the hospital or long term care facility.
- (g) For categorically needy aged, blind or disabled cases without grandfathered protection, nonhome property and personal property that is income producing shall be excluded from resources when the budget unit's equity in the property does not exceed six thousand dollars (\$6,000) and the property produces a net annual return of at least six percent of the excludable equity value for each income producing activity.
- (h) For medically needy Families and Children cases and medically needy aged, blind or disabled cases without grandfathered protection, if the client or any member of the budget unit has ownership in a probated estate, the value of the individual's proportionate share of the countable property shall be a countable resource unless the property can be excluded as the homesite or as income producing property, as stated in (e) and (f) of this Rule.
- (i) The equity in non-excluded real property shall be counted toward the reserve level of the budget unit.
- (j) A motor vehicle shall be determined an essential vehicle as follows:
  - (1) For aged, blind or disabled individuals with grandfathered protection, if public transportation cannot be used because it is not available or because of his physical or mental condition and the vehicle is needed to:
    - (A) Obtain regular medical treatment, or
    - (B) Retain employment, or
    - (C) Go shopping if the shopping area is more than one-half mile from the client's home, or
    - (D) Go shopping if the client is responsible for shopping and is physically limited from walking one-half mile, or

## PROPOSED RULES

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- (E) Transport children to and from school and the school is not within reasonable walking distance;
- (2) For aged, blind or disabled cases without grandfathered protection and medically needy Family and Children's related cases, a vehicle must be specially equipped for use by a handicapped individual, used to obtain regular medical treatment, or used to retain employment.

(k) The value of non-excluded motor vehicles will be determined by the average wholesale value listed in the Red Book. If the vehicle is not listed in the Red Book, the value will be determined by knowledgeable sources. If the client disagrees with the Red Book value he may obtain an appraisal at his own expense based on Part 5 - Supplemental Security Income Manual.

(l) The current market value of a remainder interest in life estate shall be determined by applying the remainder interest percentage from the chart in the Medicaid Eligibility Manual to the tax value of the property. A lower current market value for remainder interest may be established by offering the interest for sale and the highest offer received, if any, is less than the value determined by application of the values chart to the tax value.

(m) For all aged, blind or disabled cases, up to one thousand five hundred dollars (\$1,500) may be excluded from countable resources for the client and his spouse under the burial exclusion. Apply the one thousand five hundred dollar (\$1,500) burial exclusion for each individual separately. Only the following resources may be excluded and they must be excluded in the following order:

- (1) Irrevocable pre-need burial contracts, burial trusts, or other irrevocable arrangements established for burial expenses;
- (2) Face value of life insurance policies that accrue cash value when the total face value of all policies for the budget unit is one thousand five hundred dollars (\$1,500) or less and the cash value was not counted in reserve;
- (3) Revocable burial contracts or trusts established for burial expenses. Any excess remains a countable resource;
- (4) Cash value of life insurance that has been designated for burial expenses if the cash value was considered in determining countable reserve. Any cash value in excess of one thousand five hundred dollars (\$1,500) remains a countable resource.

(n) For all aged, blind or disabled cases and medically needy Family and Children's related

cases, the value of trust funds established for the client or for any member of the budget unit is a countable resource unless it is determined by the courts that the funds are not available for the beneficiary of the trust.

(o) For an institutionalized individual, the availability of resources are determined in accordance with 42 U.S.C. 1396r-5. Resources of the community spouse are not counted for the institutionalized spouse when:

- (1) Resources of the community spouse cannot be determined or cannot be made available to the institutionalized spouse because the community spouse cannot be located; or
- (2) The couple has been continuously separated for 12 months at the time the institutionalized spouse enters the institution.

Authority G.S. 108A-54; 108A-55; 143-127.1(d); S.L. 1983, c. 1116; 42 U.S.C. 1396r-5; 42 C.F.R. 435.602; 42 C.F.R. 435.711; 42 C.F.R. 435.712; 42 C.F.R. 435.734; 42 C.F.R. 435.821; 42 C.F.R. 435.822; 42 C.F.R. 435.823; 42 C.F.R. 435.845; 45 C.F.R. 233.20; 45 C.F.R. 233.51; Deficit Reduction Act of 1984 (P.L. 98-369), Section 2373.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Department of Human Resources, Division of Economic Opportunity intends to amend rule(s) cited as 10 NCAC 51F .0101 - .0103, .0202, .0301 - .0303, .0401 - .0402, .0501 - .0504, .0601.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on September 17, 1991 at the Division of Economic Opportunity, 2413 Crabtree Boulevard, Suite 119, Raleigh, NC 27604.*

*Comment Procedures: Comments may be submitted in writing or may be presented orally at the public hearing. Oral presentations which exceed three minutes are requested to have a written copy to be filed with the hearing clerk. Further details of the proposed rules may be obtained by writing or calling: Ms. Edith A. Hubbard, Director, Division of Economic Opportunity, 2413 Crabtree Blvd., Suite 119, Raleigh, NC 27604. Phone No. (919) 733-2633.*

*Editor's Note: These Rules have been filed as temporary amendments effective July 24, 1991 for a period of 180 days to expire on January 20, 1992.*

## **CHAPTER 51 - DIVISION OF ECONOMIC OPPORTUNITY**

### **SUBCHAPTER 51F - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES**

#### **SECTION .0100 - GENERAL PROVISIONS**

##### **.0101 PURPOSE AND OBJECTIVES**

The purpose of the North Carolina Emergency Shelter Grants Program (hereinafter referred to as "ESGP") is to assist families and individuals who are homeless primarily due to their economic circumstances. Consistent with this purpose, ESGP funds will assist local governments private nonprofit organizations in improving the quality and availability of emergency shelters and services for the homeless in their community.

*Authority G.S. 143-323; 143B-10; 143B-276; P.L. 100-628; 24 C.F.R. 575 and 576.*

##### **.0102 DEFINITIONS**

The following terms shall apply to the rules of this Subchapter:

- (1) "Act" means the Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, as amended.
- (2) "Applicant" means a local government private nonprofit organization which makes an application pursuant to the provisions of this Subchapter.
- (3) "Department" means the North Carolina Department of Economic and Community Development Human Resources.
- (4) "ESGP" means the state-administered Emergency Shelter Grants Program.
- (5) "Local Government" means any unit of general city or county government in the state.
- (6) "Recipient" means a local government private nonprofit organization that has been awarded an ESGP grant and has executed a Grant Agreement with the Department.
- (7) "Secretary" means the Secretary of the Department of Economic and Community Development Human Resources or his designee.
- (8) "Shelter" means an individual facility with the capacity to provide overnight lodging whose purpose is to assist homeless persons through activities funded under this Subchapter. For purposes of this program,

the term "shelter" excludes substance abuse rehabilitation centers.

(8) "State" means the state of North Carolina.

(10) "Subrecipient" means a nonprofit service providing agency that a recipient contracts with to carry out services and activities funded under this Subchapter.

(9) "Obligated" means the recipient has placed orders, awarded contracts, incurred costs, or performed similar transactions that require payment from the ESGP grant amount.

(10) "Expended" means purchases have been made and deliveries received for goods and services to be paid with ESGP funds.

(11) "Homeless" - because of the length of the definition, to be all inclusive, please refer to shall be defined as provided in history note 24 CFR 576.3, which is to be adopted by reference under G.S. 150B-14(c).

(12) "Private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1988 which:

- (a) is exempt from taxation under Subtitle A of the Code;
- (b) has an accounting system and a voluntary board; and
- (c) practices nondiscrimination in the provision of assistance.

Section 501(c) is adopted by reference under G.S. 150B-14(c).

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.3; P.L. 100-77.*

##### **.0103 ELIGIBLE APPLICANTS**

Eligible applicants are all local governments private nonprofit organizations providing assistance to the homeless.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.23.*

#### **SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES**

##### **.0202 INELIGIBLE ACTIVITIES**

This Subchapter, in accordance with G.S. 150B-14(c), adopts by reference as ineligible activities those activities described as such in the Act and in 24 CFR 576.21(e), 24 CFR 576.22(a), as amended. Copies of these sections of federal law and regulation are available for public distribution from the Department.

*Authority G.S. 143-323; 143B-10; 150B-14; 24 C.F.R. 576.22(a).*

## **PROPOSED RULES**

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### **SECTION .0300 - GENERAL REQUIREMENTS**

#### **.0301 APPLICATION REQUIREMENTS**

(a) Local governments Private nonprofit organizations are required to submit applications in a manner prescribed by the Department in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application. thus applications must provide sufficient information for the Department to evaluate them.

(b) ~~Applicants may apply for more than one grant and be awarded more than one grant, providing the total amount of funds awarded to a single shelter does not exceed the maximum limits determined by the Department.~~

(b) (e) The Department shall designate specific dates for submission of ESGP grant applications. Grant application submission dates will be announced by the Department a minimum of 20 days before the date applications are due.

(c) (d) Applications must be received by the Department administrative offices in Raleigh before 5:00 p.m. on the submission date or, if sent by mail, must be postmarked on or before the submission date.

(d) (e) The applicant shall certify to the Department that it will comply with all applicable federal and state laws, regulations, rules and executive orders.

(1) Copies of these federal and state documents are available for public distribution from the Department.

(2) Notwithstanding the provisions of Paragraph (d) Paragraph (c) in this Rule, certifications of compliance may be postmarked to be received by the Department up to two weeks after the date the application is due. This provision applies only to certifications.

(e) (f) Applicants must comply with the Act, all applicable federal and state laws, regulations, rules, executive orders and guidelines issued by the Department.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.*

#### **.0302 SIZE OF GRANTS**

(a) Grants are applied for and awarded in one category: four categories: Operations, Operations/ Services, Operations/ Homeless Prevention, and Operations/ Services/ Homeless Prevention.

(b) The maximum amount which may be applied for in the Operations Services category shall be determined by the Department and depends

on the size of the shelter on whose behalf the application is made. Shelter size shall be determined by overnight lodging capacity.

(c) The minimum grant which may be applied for shall be determined by the Department.

(d) Notwithstanding the provisions of Paragraph (b) of this Rule, the Department reserves the right to award grants for less than the requested amount in the event that the total amount of funds requested exceeds the total amount of funds available; the Department also reserves the right to award grants exceeding the amount requested if the total amount of funds requested is less than the total amount of funds available.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.*

### **SECTION .0400 - OPERATIONS/ SERVICES/ HOMELESS PREVENTION CATEGORY**

#### **.0401 DEFINITION**

The operations/services operations/ services/ homeless prevention category includes those eligible activities referenced in 24 CFR 576.21(a).

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.21(a)(2)(3).*

#### **.0402 ELIGIBILITY REQUIREMENTS**

Applications for ESGP funds must be complete and show that:

- (1) The application was duly authorized by the local governing body, or that such authorization is imminent.
- (2) Grant funds will be expended by a shelter as defined in Rule .0102 of this Subchapter.
- (3) Funds will be obligated or expended within 180 days of the date of the grant award.
- (4) Funds used for the provision of essential services and homeless prevention:
  - (a) Total 30 percent or less, each, of the entire Operations Services grant amount; and
  - (b) Are used to provide either a new service or a quantifiable increase in the level of service.
- (5) All federal requirements will be met, including:
  - (a) Matching Resources - 24 CFR 576.71;
  - (b) Nondiscrimination - 24 CFR 576.79(a).
- (6) The subrecipient recipient must continue operation as an emergency shelter for at least one year after the date of the grant award.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.*

### **SECTION .0500 - GRANT ADMINISTRATION**

## **PROPOSED RULES**

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### **.0501 GRANT AGREEMENT**

(a) Upon approval of the application by the Department, a written grant agreement will be executed between the recipient and the Department. The rules in this Subchapter, application guidelines, subsequent guidelines prepared by the Department, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.

(b) A copy of the grant agreement in its original form along with any and all modifications thereto shall be kept on file in the office of the recipient in accordance with Rule .0504 of this Section.

(c) ~~ESGP ESG~~ Program amendments. Recipients shall request prior Departmental approval for all amendments to the grant agreement when:

- (1) The recipient proposes to change the approved project budget amount for any of the three types of eligible activities as described in 24 CFR 576.21(a).
- (2) The recipient proposes to distribute all or part of its ~~grant(s)~~ grant to programs, shelters, or agencies other than those originally approved in the application.

(d) The Department reserves the right to disallow any proposed amendment to the grant agreement.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.*

### **.0502 METHOD OF ADMINISTRATION**

(a) Recipients ~~may delegate to nonprofit sub-recipients~~ have the responsibility of undertaking or carrying out ESGP activities pursuant to 24 CFR 576.3 and 24 CFR 576.23. This does not prohibit the designation of an administering agency.

(b) The Department shall make payments of ESGP funds to recipients on a cost-reimbursement or cost-incurred basis. Recipients shall request payment of ESGP funds in a manner prescribed by the Department.

(c) All payments of ESGP funds to recipients must be for costs incurred during the period of the grant. Recipients will not receive payment for costs incurred before the execution of the Grant Agreement.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.*

### **.0503 PROPERTY MANAGEMENT STANDARDS**

(a) Property acquired with ESGP grant funds shall be used to provide benefits to the homeless.

(b) Recipients ~~and subrecipients~~ must use proceeds from the disposition of property acquired

with ESGP funds in a manner which provides benefit to the homeless in their community.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.*

### **.0504 RECORDKEEPING**

(a) The Department, or any of the Department's duly authorized representatives, shall have access to all books, accounts, records, reports, files, audits, and other papers or property of recipients ~~or their subrecipients~~ and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) Financial records, supporting documents and all other reports and records required under this Subchapter, and all other audits and records pertinent to the ESG Program shall be retained by the recipient for a period of at least three years from the date of the closeout of the program, except that records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(c) All records shall be sufficient to determine compliance with the requirements and primary objectives of the ESG Program and all other applicable laws and regulations. All accounting records shall be supported by source documentation.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.87.*

## **SECTION .0600 - COMPLIANCE AND REPORTING REQUIREMENTS**

### **.0601 COMPLIANCE**

Recipients shall have responsibility for ensuring that ESGP funds are expended as stated in their grant agreement and in conformance with all applicable federal and state laws, regulations, and guidelines. ~~regardless of whether activities are carried out by the recipient or a subrecipient~~. The Department may prescribe procedures for ensuring compliance with the provisions of this Rule.

*Authority G.S. 143-323; 143B-10; 24 C.F.R. 576.81.*

## **TITLE 12 - DEPARTMENT OF JUSTICE**

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Criminal Justice Education and Training Standards Commission intends to amend rule(s) cited as 12 NCAC 9A*

## ***PROPOSED RULES***

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.0204; 9B .0201, .0203, .0225, .0401 - .0403; 9C .0303, .0308; 9E .0106 - .0107.

*The proposed effective date of this action is February 1, 1992.*

*The public hearing will be conducted at 10:00 a.m. on October 4, 1991 at the Auditorium of the Albert Coates Local Government Center, 215 North Dawson Street, Raleigh, North Carolina 27602.*

**Comment Procedures:** Any person interested in these Rules may present oral and written comments relevant to the proposed action at the Public Rule-Making Hearing. Written statements not presented at the Hearing should be directed to the David D. Cashwell. The proposed rules are available for public inspection and copies may be obtained at the following address:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Room 123, Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

### **CHAPTER 9 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS**

#### **SUBCHAPTER 9A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

##### **SECTION .0200 - ENFORCEMENT OF RULES**

###### **.0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

(a) The Commission shall revoke the certification of a criminal justice officer when the Commission finds that the officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment included imprisonment for more than two years.

(b) The Commission may suspend, revoke, or deny the certification of a criminal justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within prescribed time periods relevant or applicable to a specified position or job title;
- (2) fails to meet or maintain any one or more of the minimum employment standards required by 12 NCAC 9B .0100 for the

category of the officer's certification or fails to meet or maintain one or more of the minimum training standards required by 12 NCAC 9B .0200 or 12 NCAC 9B .0400 for the category of the officer's certification;

- (3) has committed or been convicted of:
  - (A) a crime or unlawful act defined in 12 NCAC 9A .0103 as a Class B misdemeanor; or
  - (B) four or more crimes or unlawful acts defined in 12 NCAC 9A .0103 as a Class A misdemeanor, each of which occurred after the date of initial certification;
- (4) has been discharged by a criminal justice agency for commission or conviction of:
  - (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
  - (B) any other offense involving moral turpitude;
- (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical capabilities to properly fulfill the responsibilities of a criminal justice officer;
- (6) has knowingly made a material misrepresentation of any information required for certification or accreditation;
- (7) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission;
- (8) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training or certification from the Commission;
- (9) has failed to make either of the notifications as required by 12 NCAC 9B .0101(7);
- (10) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16;
- (11) fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 9E;
- (12) has refused to submit to an applicant or lateral transferee drug screen as required by these Rules; or
- (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 9C .0310, where the positive result cannot be explained to the Commission's satisfaction.

## ***PROPOSED RULES***

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(c) Following suspension, revocation, or denial of the person's certification, the person may not remain employed or appointed as a criminal justice officer and the person may not exercise any authority of a criminal justice officer during a period for which the person's certification is suspended, revoked, or denied.

*Statutory Authority G.S. 17C-6; 17C-10.*

### **SUBCHAPTER 9B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING**

#### **SECTION .0200 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

##### **.0201 ADMINISTRATION OF CRIMINAL JUSTICE SCHOOLS**

(a) The executive officer or officers of the institution or agency sponsoring any criminal justice training program or course of instruction shall have primary responsibility for implementation of these Rules and standards and for administration of the school. The executive officer or officers of the institution or agency shall secure School Accreditation pursuant to 12 NCAC 9C .0401 prior to offering any criminal justice training course.

(b) The executive officers shall designate ~~a one~~ compensated staff member who is formally certified by the Commission under Section .0500 of this Subchapter to be the criminal justice school director. The school director shall have administrative responsibility for planning, scheduling, presenting, coordinating, reporting, and generally managing each sponsored accredited criminal justice training course.

(c) The executive officers shall permanently maintain records of all criminal justice training courses sponsored or delivered by the school, reflecting:

- (1) course title;
- (2) delivery hours of course;
- (3) course delivery dates;
- (4) names and addresses of instructors utilized within designated subject-matter areas; and
- (5) a roster of enrolled trainees, showing class attendance and designating whether each trainee's course participation was successful or unsuccessful;
- (6) copies of all rules, regulations and guidelines developed by the school director;
- (7) documentation of any changes in the initial course outline, including substitution of instructors; and

(8) documentation of make-up work achieved by each individual trainee, including test scores and methods.

(d) The executive officers of the institution or agency sponsoring any criminal justice training program or course of instruction shall:

- (1) acquire and allocate sufficient financial resources to provide commission certified instructors and to meet other necessary program expenses;
- (2) provide adequate secretarial, clerical, and other supportive staff assistance as required by the school director;
- (3) provide or make available suitable facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, specifically including the following:
  - (A) a comfortable, well-lighted and ventilated classroom with a seating capacity sufficient to accommodate all attending trainees;
  - (B) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of effective training;
  - (C) a library for trainees' use covering the subject-matter areas relevant to the training course, maintained in current status and having sufficient copies for convenient trainee access;
  - (D) where required by course content, provide or make available facilities, equipment, and supplies to provide training in physical and motor-skill exercises such as defensive tactics, firearms qualification, and pursuit defensive driving.

(e) The sponsoring institution, unless it is an agency or department accredited by the Commission to provide basic training to its own personnel, ~~or is an educational institution authorized by the Commission to incorporate basic criminal justice training in a degree awarding academic program,~~ is not required to assume the costs of providing the following specified equipment and supplies for trainee use during course delivery:

- (1) firearms (handgun and shotgun),
- (2) firearm ammunition (practice and qualifying),
- (3) motor vehicle,
- (4) police baton,
- (5) gas mask,
- (6) handcuffs, or
- (7) radar, radar and time-distance or time-distance speed measurement instruments.

(f) The school rules may require the employing agency or department to make the equipment and supplies listed in Paragraph (e) of this Rule

## ***PROPOSED RULES***

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available at the appropriate scheduled time during course delivery for the use of its own trainee officers.

*Statutory Authority G. S. 17C-6.*

### **.0203 ADMISSION OF TRAINEES**

(a) The school may not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course without the prior written approval of the Director of the Standards Division.

(b) The school shall give priority admission in accredited criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(c) The school may not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor Training Course" who does not meet the minimum education and experience requirements for instructor certification under Rule .0302(1) of this Subchapter.

(d) The school shall administer the reading component of a standardized test which reports a grade level. The specific type of test instrument shall be determined by the school director and

shall be administered no later than by the end of the first two weeks of a presentation of the "Basic Recruit Training -- Law Enforcement" course. The grade level results on each trainee shall be submitted to the Commission as an attachment to the Post-delivery Report of Training Course Presentation (Form F-10B).

(e) (d) The school shall not admit any individual as a trainee in a presentation of the "Basic Recruit Training -- Law Enforcement" course unless a prerequisite the individual has provided to the certified school director a Medical Examination Report Form in compliance with 12 NCAC 9B .0104, properly completed by a physician licensed to practice medicine in North Carolina; however, the Director of the Standards Division is authorized to grant an exception to this requirement where the school director can document exceptional or emergency circumstances. The Medical Examination Report Form required by the North Carolina Sheriff's Education and Training Standards Commission shall be recognized by the Commission for the purpose of complying with this Rule.

*Statutory Authority G. S. 17C-6; 17C-10.*

### **.0225 BASIC TRAINING -- LOCAL CONFINEMENT PERSONNEL**

(a) The basic training course for local confinement facility personnel shall consist of a minimum of 80 hours of instruction presented during a single offering of the jailer course prescribed in 12 NCAC 10, as amended November 1, 1985, by the North Carolina Sheriff's Education and Training Standards Commission.

(a) The basic training course for local confinement facility personnel consists of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as an officer, supervisor or administrator of a local confinement facility.

(b) The basic training course for local confinement facility personnel shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

(1) Orientation Pretest	1 Hour
(2) Civil Liability in the Jail	2 Hours
(3) Legal Rights and Responsibilities Within the Corrections Environment	10 Hours
(4) Processing Inmates: Booking, Intake, Classification and Release Procedures	8 Hours
(5) Transportation of Inmates	4 Hours
(6) Introduction to the Minimum Standards for the Operation of Local Confinement Facilities in North Carolina	2 Hours
(7) Key and Tool Control	1 Hour
(8) Medical Care in the Jail	5 Hours
(9) Patrol and Emergency Procedures	3 Hours
(10) Suicide in the Jail: Detection and Prevention	3 Hours
(11) Supervision of Inmates	7 Hours
(12) Psychological Disorders: Psychotic and Neurotic Personality	4 Hours
(13) Contraband Searches	6 Hours
(14) Handling Emergencies (Fire)	8 Hours

## PROPOSED RULES

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(15) CPR  
(16) Test

43 Hours  
3 Hours

**Note:** Local confinement facility personnel who are currently certified in CPR (Cardiopulmonary Resuscitation) at the time of enrollment in the jailer course shall be exempt from the CPR block of instruction and subsequent CPR examination.

(1) Physical Assessment	4 Hours
(2) Contraband Searches	6 Hours
(3) Patrol and Emergency Procedures	3 Hours
(4) Processing Inmates	4 Hours
(5) Key and Tool Control	1 Hour
(6) Medical Issues in Local Lockups	11 Hours
(7) Unarmed Self-Defense	18 Hours
(8) Fire Emergencies	16 Hours
(9) Legal Rights and Responsibilities	12 Hours
(10) Civil Liability	2 Hours
(11) Disciplinary Procedures	2 Hours
(12) Suicides and Local Confinement Facilities	4 Hours
(13) Introduction to Rules and Regulations	2 Hours
(14) Role of the Jailer in Supervision, Communication and Crisis Management	4 Hours
(15) Criminal Justice System	1 Hour
(16) Homosexuality	1 Hour
(17) Transportation	4 Hours
(18) Special Populations	5 Hours
(19) Testifying in Court	4 Hours
(20) Criminal Investigation	3 Hours
(21) Written Communication	3 Hours
(22) Standard First Aid	8 Hours

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Total      118 Hours

(c) Local confinement facility personnel that are also certified law enforcement officers shall be exempt from the following blocks of instruction: Special Populations, Testifying in Court, Criminal Investigation and Written Communication. Certified law enforcement officers who are currently certified in CPR (Cardiopulmonary Resuscitation) at the time of enrollment in the "Basic Training -- Local Confinement Personnel" course shall be exempt from the CPR block of instruction. All trainees will be required to take the entire State Comprehensive Examination at the conclusion of the course.

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10.*

### SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

#### .0401 TIME REQUIREMENT FOR COMPLETION OF TRAINING

(a) Each criminal justice officer, with the exception of law enforcement officers, holding temporary or probationary certification shall satisfactorily complete a commission-accredited basic training course which includes training in the skills and knowledge necessary to perform the duties of his office. The officer shall complete such course within one year from the date of his original appointment as determined by the date of the temporary or probationary certification.

(b) Each law enforcement officer, except alcohol law enforcement agents and wildlife enforcement officers, shall have satisfactorily completed in its entirety the accredited basic training course as prescribed in 12 NCAC 9B .0205(b) prior to obtaining probationary certification.

(c) Each alcohol law enforcement agent holding temporary or probationary certification shall, in addition to having satisfactorily completed the pre-service basic training course as prescribed in 12 NCAC 9B .0205(b) or having satisfactorily completed the first eleven weeks of the Basic Training, Alcohol Law Enforcement Agent's course stipulated in 12 NCAC 9B .0217(b), satisfactorily complete in its entirety the accredited

## **PROPOSED RULES**

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basic training course as prescribed in 12 NCAC 9B .0217(b). The agent shall complete such course within one year from the date of his original appointment as determined by the date of the temporary or probationary certification.

(c) Each alcohol law enforcement agent shall have satisfactorily completed the first 11 weeks of the Basic Training: Alcohol Law Enforcement Agents' course stipulated in 12 NCAC 9B .0217(b) prior to obtaining probationary certification. The agent shall satisfactorily complete such course in its entirety within one year from the date of his original appointment as determined by the date of the probationary certification.

(d) Each wildlife enforcement officer shall have satisfactorily completed in its entirety the Basic Training -- Wildlife Enforcement Officers' course stipulated in 12 NCAC 9B .0228(b) prior to obtaining probationary certification.

(e) If a law enforcement officer completed trainee completes the basic training course prior to being employed as a law enforcement officer, the officer trainee shall be sworn duly appointed and sworn as a law enforcement officer within one year of the completion of training for that basic training course to be recognized under these Rules. This one year period shall begin with the successful completion of the State Comprehensive Examination.

(f) If local confinement personnel complete basic training prior to being employed by a facility in a position which requires certification, such

personnel shall be duly appointed to a local confinement facility position within one year of the completion of training for that basic training course to be recognized under these Rules. This one year period shall begin with the successful completion of the State Comprehensive Examination.

*Statutory Authority G. S. 17C-2; 17C-6; 17C-10.*

### **.0402 WAIVER OF COMPLETION OF TRAINING**

(a) The Commission may waive an officer's completion of the commission-accredited training course upon receiving documentary evidence from the employing department that the officer has satisfactorily completed equivalent training. All such officers, however, shall serve a one year period of probation.

(b) Training received in states with laws governing or regulating criminal justice officer training shall, if subject to such review, have been approved or certified by the appropriate agency of the state in which the training was received.

(c) The Commission may prescribe as a condition of certification supplementary or remedial training deemed necessary to equate previous training with current standards.

(d) The Commission may shall require satisfactory performance on a commission approved written examination as proof of equivalent training.

*Statutory Authority G.S. 17C-6; 17C-10.*

### **.0403 EVALUATION FOR TRAINING WAIVER**

(a) The division staff shall evaluate each law enforcement officer's training and experience to determine if equivalent training has been satisfactorily completed as specified in Rule .0402(a). Applicants for certification with prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in order to be considered for training evaluation under this Rule. Applicants for certification with a combination of full-time and part-time experience shall be evaluated on the basis of the full-time experience only. The following criteria shall be used by division staff in evaluating a law enforcement officer's training and experience to determine eligibility for a waiver of training requirements:

- (1) Persons having completed a commission-accredited basic training program and not having been duly appointed as a sworn law enforcement officer within one year of completion of the program shall complete a subsequent commission-accredited basic training program in its entirety and successfully pass the State Comprehensive Examination prior to obtaining probationary law enforcement certification.
- (2) Persons who separated from law enforcement employment during their probationary period and who have been separated from a sworn law enforcement position for more than one year shall complete a subsequent basic training program in its entirety prior to obtaining another probationary certification.
- (2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees cannot have a break in service exceeding one year. At a minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement experience and have successfully completed a basic law enforcement training course accredited by the State from which transferring. Prior to employment as a certified law

## PROPOSED RULES

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enforcement officer, out-of-state transferees must successfully complete the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 9E .0100. At a minimum, out-of-state transferees shall successfully complete a commission-accredited training program which includes the following enumerated topics of North Carolina law and procedure and shall successfully pass the State Comprehensive Examination in its entirety within the 12 month probationary period. as prescribed in 12 NCAC 9B .0401(b).

Laws of Arrest, Search and Seizure	16 Hours
Elements of Criminal Law	24 Hours
Juvenile Laws and Procedures	8 Hours
Controlled Substances	6 Hours
ABC Laws and Procedures	4 Hours
Motor Vehicle Laws	20 Hours
<u>Firearms Qualifications (Handgun &amp; Shotgun Courses)</u>	
	 Total
	78 Hours

(3) (4) Persons who have completed a minimum 369-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning October 1, 1984 and have been separated from a sworn position for over one year but less than three years who have had a minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina shall successfully complete the refresher training enumerated in Rule .0403(a)(3) and shall successfully pass the State Comprehensive Examination in its entirety within the 12 month probationary period. as prescribed in 12 NCAC 9B .0401(b). Prior to employment as a certified law enforcement officer, these persons shall successfully complete the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 9E .0100.

(4) (5) Persons out of the law enforcement profession for over one year but less than three years who have had less than two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete a commission-accredited basic training program in its entirety and successfully pass the State Comprehensive Examination.

(5) (6) Persons out of the law enforcement profession for over three years regardless of prior training or experience shall complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination.

(7) Persons having completed a commission accredited basic training program and not having been duly appointed as a sworn law enforcement officer within one year of completion of the basic training program shall complete a subsequent commission accredited basic training program in its entirety and successfully pass the State Comprehensive Examination.

(6) (8) Persons who separated from law enforcement employment during their probationary period after having completed a commission-accredited basic training program and who have separated from a sworn law enforcement position for more than one year shall complete a subsequent commission-accredited basic training program in its entirety and successfully pass the State Comprehensive Examination.

(7) (9) Persons who separated from a sworn law enforcement position during their probationary period after having successfully completed a commission-accredited basic training program and who have separated from a sworn law enforcement position for less than one year shall serve a new 12 month probationary period, but need not complete an additional training program.

(8) (10) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have separated from a sworn law enforcement position for over one year but less than two years shall be required to complete the following portions of a commission-accredited basic training program and successfully pass the State Comprehensive Examination within the 12 month probationary period. as prescribed in 12 NCAC 9B .0401(b). Prior to employment as a certified law enforcement officer, these persons shall successfully complete the employing

## PROPOSED RULES

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agency's in-service firearms training and qualification program as prescribed in 12 NCAC 9E .0100.

Laws of Arrest, Search and Seizure	16 Hours
Elements of Criminal Law	24 Hours
Juvenile Laws and Procedures	8 Hours
Controlled Substances	6 Hours
ABC Laws and Procedures	4 Hours
Motor Vehicle Laws	20 Hours
Law Enforcement Driver Training	16 Hours
<u>Firearms Qualification (Handgun &amp; Shotgun Courses)</u>	

Total      94 Hours

(9) (11) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and have been separated from a sworn law enforcement position for over two years shall be required to complete a current commission-accredited basic training program in its entirety regardless of training and experience and shall successfully pass the State Comprehensive Examination.

(10) (12) Persons who have completed a minimum 240-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and have been separated from a sworn position over one year but less than three years shall be required to complete the following portions of a commission-accredited basic training program and successfully pass the State Comprehensive Examination within the 12 month probationary period. ~~as prescribed in 12 NCAC 9B .0401(b).~~ Prior to employment as a certified law enforcement officer, these persons shall successfully complete the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 9E .0100.

Laws of Arrest, Search and Seizure	16 Hours
Elements of Criminal Law	24 Hours
Juvenile Laws and Procedures	8 Hours
Controlled Substances	6 Hours
ABC Laws and Procedures	4 Hours
Motor Vehicle Laws	20 Hours
<u>Firearms Qualifications (Handgun &amp; Shotgun Courses)</u>	

Total      78 Hours

(13) Persons who have completed a minimum 240-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and have been separated from a sworn position over three years shall be required to complete a current commission-accredited basic training program in its entirety regardless of prior training and experience and shall successfully pass the State Comprehensive Examination.

(11) (14) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who have been separated from a sworn law enforcement position for over one year and who have not previously completed a minimum 160-hour basic law enforcement training program accredited by either the North Carolina Criminal Justice Training and Standards Council or under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 or have not previously completed a minimum 240-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning on October 1, 1978 and continuing

## PROPOSED RULES

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through September 30, 1984 shall be required to complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination prior to employment.

(12) (15) Persons who have completed training as a federal law enforcement officer and are appointed as a sworn law enforcement officer in North Carolina shall be required to complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination.

(13) (16) Applicants with part-time experience who have a break in service in excess of one year shall serve a new probationary period as prescribed in 12 NCAC 9B .0401(b) and shall complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination prior to employment.

(14) (17) Applicants who hold or previously held certification issued by the North Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. The division staff shall determine the amount of training required of these applicants.

(15) (18) Alcohol law enforcement agents who separate from employment with the Division of Alcohol Law Enforcement and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The division staff shall determine the amount of training required of these applicants.

(16) (19) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement Division and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The division staff shall determine the amount of training required of these applicants.

(b) In those instances not specifically incorporated within this Section or where an evaluation of the applicant's prior training and experience determines that required attendance in the entire "Basic Recruit Training--Law Enforcement" course would be impractical, the Director of the Standards Division is authorized to exercise his discretion in determining the amount of training those persons shall complete during their probationary period.

(c) The following criteria shall be used by division staff in evaluating prior training and experience of local confinement personnel to determine eligibility for a waiver of training requirements:

(1) Persons who hold probationary, general or grandfather certification as local confinement personnel and separate after having completed a commission-accredited course as prescribed in 12 NCAC 9B .0224 or .0225 and have been separated for more than one year shall complete a subsequent commission-accredited training course in its entirety and successfully pass the State Comprehensive Examination during the probationary period as prescribed in 9B .0401(a).

(2) Persons who separated from a local confinement personnel position after having completed a commission-accredited course as prescribed in 12 NCAC 9B .0224 or .0225 and who have been separated for less than one year shall serve a new 12 month probationary period, but need not complete an additional training program.

(3) Applicants who hold or previously held "Jailer Certification" issued by the North Carolina Sheriff's Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. Where the applicant properly obtained certification and successfully completed the required 120 hour training course, and has not had a break in service in excess of one year, no additional training will be required.

(4) Persons holding certification for local confinement facilities who transfer to a district or county confinement facility shall satisfactorily complete the course for district and county confinement facility personnel, as adopted by reference in 12 NCAC 9B .0224, in its entirety and successfully pass the State Comprehensive Examination during the probationary period as prescribed in 9B .0401(a).

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10.*

### SUBCHAPTER 9C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

#### SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

##### .0303 PROBATIONARY CERTIFICATION

(a) Before a prospective criminal justice officer may be administered the oath of office, exercise the power of arrest, or commence active service as an officer, the employing agency shall have in its possession the person's Probationary Certification.

## ***PROPOSED RULES***

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(b) The Commission shall certify as a probationary officer a person meeting the minimum standards for criminal justice employment when the person's employing agency submits a completed Report of Appointment to the Standards Division.

- (1) The Standards Division shall issue the person's Probationary Certification to the employing agency.
- (2) If an oath is required, the official administering an oath of office to the person shall be presented the person's Probationary Certification prior to the swearing. The administering official shall sign and date the oath on the Probationary Certification. The employing agency shall return a copy of the signed Probationary Certification to the Standards Division within 10 days of the administration of the officer's oath.
- (3) If no oath is required, the officer's department head shall endorse the Probationary Certification and enter the date on which the officer's service commenced, returning a copy of the certification to the Standards Division within 10 days of the commencement of the officer's service.

(c) The officer's Probationary Certification shall remain valid for one year from the date the certification is issued by the Standards Division unless sooner terminated for cause.

(d) Before a prospective law enforcement officer, except alcohol law enforcement agents and wildlife enforcement officers, appointed by the Secretary of Crime Control and Public Safety as authorized under General Statutes 18B-500, can be issued a probationary certification, Probationary Certification, the prospective officer must have successfully completed the required basic training course stipulated in 12 NCAC 9B .0205(b).

(e) Before a prospective alcohol law enforcement agent can be issued a probationary certification, Probationary Certification, the prospective officer must have successfully completed the required basic training course stipulated in 12 NCAC 9B .0205(b) or must have successfully completed the first eleven weeks of the Basic Training: Alcohol Law Enforcement Agent's course stipulated in 12 NCAC 9B .0217(b).

(f) Before a prospective wildlife enforcement officer can be issued a Probationary Certification, the prospective officer must have successfully completed the required basic training course stipulated in 12 NCAC 9B .0228(b).

(g) (f) An applicant for certification who holds a valid Probationary Certification issued by the

North Carolina Sheriffs' Education and Training Standards Commission shall be certified as a probationary law enforcement officer as specified under Paragraphs (b), (c) and (d) of this Rule.

(h) (e) Where the local governing authority lawfully declares the existence of a public emergency, the department head of the criminal justice agency of the jurisdiction may swear persons as law enforcement officers without first obtaining probationary certification Probationary Certification for those officers. The employing agency shall obtain probationary certification Probationary Certification for such emergency officers not more than 20 days after the administration of their oath of office.

*Statutory Authority G.S. 17C-6; 17C-10.*

### **.0308 INSTRUMENT OPERATORS CERTIFICATION PROGRAM**

(a) Certification shall be issued in one of the following categories:

- (1) radar operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 9B .0210, .0211, .0212, .0213, .0218, .0219, .0220, or .0221;
- (2) radar and time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 9B .0211, .0213, .0219, or .0221;
- (3) time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 9B .0211, .0213, .0214, .0219, .0221, or .0222.

(b) Certification in either category will reflect operational proficiency in the designated type(s) of approved equipment for which the trainee has been examined and tested. Such certification shall be for a two year period from the date of issue and re-certifications shall be for a three year period from the date of issue, unless sooner terminated by the Commission. However, if re-testing on the motor-skill area is necessary, re-certification shall be for a two year period from the date of issue, unless sooner terminated by the Commission. At a minimum, the applicant shall meet the following requirements for operator certification or re-certification upon the presentation of documentary evidence showing that the applicant:

- (1) has successfully completed the training program as required in 12 NCAC 9B

.0210, .0211, .0212, .0213, .0214, .0218, .0219, .0220, .0221, or .0222; and

(2) has successfully completed a commission-accredited basic law enforcement training course as required in 12 NCAC 9B .0400 and is currently certified in a probationary status or holds general law enforcement certification; or

(3) if the applicant is a sheriff, deputy sheriff, or other sworn appointee with arrest authority governed by the provisions of Chapter 17E of the General Statutes, has met and is in total compliance with the then current employment and training standards as established and made effective for such position by the North Carolina Sheriffs' Education and Training Standards Commission.

(c) Certified operators shall be notified by the Commission not less than 90 days prior to expiration of certification. All applicants for re-certification shall successfully complete a commission-approved re-certification course within 12 months from the expiration of the previous certification. ~~course but not sooner than six months prior to the expiration of the previous certification.~~ If re-certification is not obtained within the 12 month period, successful completion of the appropriate operator training programs as required by 12 NCAC 9B .0409(a) will be required to obtain operator certification. This prescribed 12 month period shall not extend the operator certification period beyond its specified expiration date. ~~When a re-certification course is successfully completed prior to the expiration of the previous certification, the new certification shall be issued by the Criminal Justice Standards Division effective upon the receipt of the Post-delivery Report of Training Course Presentation.~~

(d) Re-certification shall be issued only to officers with current law enforcement certification.

(e) All certifications issued pursuant to this Rule and the standards in effect between November 1, 1981 and July 1, 1982 shall continue with full force and effect; however, said certifications shall be subject to the provisions of 12 NCAC 9C .0308(c) and (d).

*Statutory Authority G.S. 17C-6.*

**SUBCHAPTER 9E - IN-SERVICE TRAINING PROGRAMS**

**SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM**

**.0106 IN-SERVICE FIREARMS QUALIFICATION SPECIFICATIONS**

(a) All certified law enforcement officers shall be required to qualify with their individual and department-approved service handgun(s) a minimum of once each calendar year. For the purpose of this specification, service handgun shall include any semi-automatic pistol or revolver. ~~In addition to the requirements specified in Rule .0105 of this Subchapter, the following courses of fire shall be used when conducting qualification with the service handgun(s):~~

(1) ~~Day Course - must include a minimum of 30 rounds to include a minimum of 6 from the 3 yard line, 12 from the 7 yard line, 6 from the 15 yard line, and 6 from the 25 yard line.~~

(2) ~~Night Course - must include a minimum of 30 rounds to include a minimum of 6 from the 3 yard line, 6 from the 5 yard line, 12 from the 7 yard line, and 6 from the 15 yard line. Light conditions should vary from no light to available light.~~

(b) All certified law enforcement officers who are issued or authorized to use a shotgun, rifle or automatic weapon shall be required to qualify with each weapon respectively a minimum of once each calendar year. ~~In addition to the requirements specified in Rule .0105 of this Subchapter, the following courses of fire shall be used when conducting qualification with the shotgun, rifle or automatic weapon:~~

(1) ~~Shotgun Course - must include a minimum of 5 rounds and shooters must fire from the 15 and 25 yard lines.~~

(2) ~~Rifle Course - must include a minimum of 5 rounds and shooters must fire from a minimum of the 50 yard line.~~

(3) ~~Automatic Weapon - must include a minimum of 20 rounds.~~

(c) Qualification shall be completed with duty equipment and duty ammunition for all weapons.

(d) All certified law enforcement officers who are authorized to carry an off-duty handgun(s) shall be required to qualify with each such handgun consistent with the specifications as outlined in Rules .0105 and .0106(a) of this Section.

(e) To satisfy the minimum training requirements for all in-service firearms qualifications, an officer shall attain a minimum of 70 percent accuracy with each weapon.

(f) Qualification must be achieved at least once in no more than three attempts in a single day for all courses of fire and for all weapons for which qualification is required. Individuals not qualifying in a single day shall be deemed as having failed and 12 NCAC 9E Rule .0103(4) and (5) shall apply.

## ***PROPOSED RULES***

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(g) The "In-Service Firearms Qualification Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as a minimum guide for conducting the annual in-service firearms qualification. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemburg, North Carolina 28385

Statutory Authority G.S. 17C-6; 17C-10.

### **.0107 FAILURE TO QUALIFY**

(a) Where an officer is employed with an agency that establishes a higher standard for annual in-service firearms training than the minimum specified in this Subchapter and the officer has failed to meet the requirements of the employing agency as of December 31 of each calendar year, such officer shall be required to meet the requirements of this Rule and the higher standard of the employing agency for continued employment. Prior to transfer to another agency, the officer shall be required to meet the requirements of this Rule and the requirements of the subsequent agency, if the subsequent agency requires a higher standard for annual in-service firearms training than the minimum required in 12 NCAC 9E .0105 and .0106.

(b) Upon notification that an officer has failed to meet the requirements for in-service firearms training and qualification as specified in Rule .0106(a) of this Subchapter, the law enforcement officer's certification shall be suspended.

(c) The suspended officer may request authorization for limited enrollment in a presentation of the "Basic Recruit Training -- Law Enforcement" course to complete the minimum 40 hour firearms training topic.

(d) Such enrollment and successful completion must occur within the 12 month period following suspension of law enforcement officer certification.

(e) Failure to enroll and successfully complete the minimum 40 hour firearms training topic in a "Basic Recruit Training -- Law Enforcement" course within the prescribed 12 month period will subject the officer to training evaluation as specified in Rule 9B .0403.

(f) No officer suspended under Paragraph (a) Paragraph (b) of this Rule may work as a certified law enforcement officer until:

- (1) the department head or designated representative forwards to the Commission documentary evidence verifying that the officer has complied with the requirements for reinstatement of certification as specified in this subsection; and
- (2) the department head or designated representative and the officer receive from the Commission documentation that the Commission has terminated the suspension and reissued law enforcement certification to the suspended officer.

Statutory Authority G.S. 17C-6; 17C-10.

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*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Department of Justice -- Sheriffs' Standards Division intends to amend rule(s) cited as 12 NCAC 10B .0204 - .0205, .0301 - .0303, .0305, .0307, .0405 - .0406, .0408, .0505 - .0509, .0601, .0603 - .0607, .0703 - .0705, .0803, .0901, .0905 - .0906, .0908 - .0909, .1001 - .1006, .1101, .1103 - .1105, .1202, .1204 - .1205, .2104; and adopt rule(s) cited as 12 NCAC 10B .0201, .0206, .0910.*

*The Agency has requested to recodify rules as follows:*

<i>RECODIFY EXISTING</i>	<i>12 NCAC 10B .0201</i>
<i>To</i>	<i>.0108</i>
<i>RECODIFY EXISTING</i>	<i>.0202</i>
<i>To</i>	<i>.0109</i>
<i>RECODIFY EXISTING</i>	<i>.0203</i>
<i>To</i>	<i>.0110</i>
<i>RECODIFY EXISTING</i>	<i>.0205</i>
<i>To</i>	<i>.0202</i>
<i>RECODIFY EXISTING</i>	<i>.0206</i>
<i>To</i>	<i>.0203</i>
<i>RECODIFY EXISTING</i>	<i>.0207</i>
<i>To</i>	<i>.0204</i>
<i>RECODIFY EXISTING</i>	<i>.0208</i>
<i>To</i>	<i>.0205</i>

*The proposed effective date of this action is January 1, 1992.*

*The public hearing will be conducted at 9:00 a.m. on September 18, 1991 at the Holiday Inn, Four Seasons, 3121 High Point Road, Greensboro, North Carolina.*

**Comment Procedures:** Any person interested in these Rules may present oral or written comments relevant to the proposed action at the Public Rule-Making Hearing. Written statements not presented at the Hearing should be directed to Joan C. Neuner. The proposed rules are available for public inspection. Copies may be obtained at the following address: Department of Justice, Sheriffs' Standards Division, Post Office Drawer 629, Raleigh, NC 27602.

## **CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

### **SUBCHAPTER 10B - NC SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

#### **SECTION .0200 - ENFORCEMENT RULES**

##### **.0201 INVESTIGATION OF VIOLATION OF RULES**

(a) If any criminal justice agency, school, authorized representative acting on behalf of either, or individual is reported to be or suspected of being in violation of any of these Rules, the Commission may take action to correct the violation and to ensure that similar violations do not occur.

(b) Before taking action against an agency, school, or individual for a violation, the Division shall investigate the alleged violation.

(c) The Commission may convene to consider these investigative reports or may delegate authority to the Director for further action.

(d) The Commission may:

- (1) direct the Division to conduct a further investigation of the alleged violation;
- (2) request the Attorney General to authorize an investigation of the violation by the State Bureau of Investigation;
- (3) direct the Division to conduct an administrative hearing in the matter; or
- (4) impose sanctions against the violator pursuant to this Section.

*Statutory Authority G.S. 17E-4; 17E-7.*

##### **.0202-.0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the officer has committed or been convicted of:

- (1) a felony unless pardoned by the Governor; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years; or
- (3) an act or any series of acts which violates the laws of the State of North Carolina and which, in the opinion of the Sheriff, will affect his her ability to act or carry out the office and duties of a justice officer.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a time period specified by the Commission;
- (2) fails to meet or maintain any of the minimum employment standards required by 12 NCAC 10B;
- (3) fails to satisfactorily complete the minimum in-service training requirements as presented in 12 NCAC 10B .2000 and .2100;
- (4) has refused to submit to the drug screen as required in 12 NCAC 10B .0301(6) or .0406(b)(4) ~~in which case such sanction shall be permanent; or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6);~~
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 ~~or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6), unless the positive result is explained to the Commission's satisfaction. such sanction shall be permanent.~~

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation ~~from the Commission or the North Carolina~~

## **PROPOSED RULES**

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(g) The "In-Service Firearms Qualification Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as a minimum guide for conducting the annual in-service firearms qualification. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemburg, North Carolina 28385

Statutory Authority G.S. 17C-6; 17C-10.

**.0107 FAILURE TO QUALIFY**

(a) Where an officer is employed with an agency that establishes a higher standard for annual in-service firearms training than the minimum specified in this Subchapter and the officer has failed to meet the requirements of the employing agency as of December 31 of each calendar year, such officer shall be required to meet the requirements of this Rule and the higher standard of the employing agency for continued employment. Prior to transfer to another agency, the officer shall be required to meet the requirements of this Rule and the requirements of the subsequent agency, if the subsequent agency requires a higher standard for annual in-service firearms training than the minimum required in 12 NCAC 9E .0105 and .0106.

(b) Upon notification that an officer has failed to meet the requirements for in-service firearms training and qualification as specified in Rule .0106(a) of this Subchapter, the law enforcement officer's certification shall be suspended.

(c) The suspended officer may request authorization for limited enrollment in a presentation of the "Basic Recruit Training -- Law Enforcement" course to complete the minimum 40 hour firearms training topic.

(d) Such enrollment and successful completion must occur within the 12 month period following suspension of law enforcement officer certification.

(e) Failure to enroll and successfully complete the minimum 40 hour firearms training topic in a "Basic Recruit Training -- Law Enforcement" course within the prescribed 12 month period will subject the officer to training evaluation as specified in Rule 9B .0403.

(f) No officer suspended under Paragraph (a) Paragraph (b) of this Rule may work as a certified law enforcement officer until:

- (1) the department head or designated representative forwards to the Commission documentary evidence verifying that the officer has complied with the requirements for reinstatement of certification as specified in this subsection; and
- (2) the department head or designated representative and the officer receive from the Commission documentation that the Commission has terminated the suspension and reissued law enforcement certification to the suspended officer.

Statutory Authority G.S. 17C-6; 17C-10.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Department of Justice -- Sheriffs' Standards Division intends to amend rule(s) cited as 12 NCAC 10B .0204 - .0205, .0301 - .0303, .0305, .0307, .0405 - .0406, .0408, .0505 - .0509, .0601, .0603 - .0607, .0703 - .0705, .0803, .0901, .0905 - .0906, .0908 - .0909, .1001 - .1006, .1101, .1103 - .1105, .1202, .1204 - .1205, .2104; and adopt rule(s) cited as 12 NCAC 10B .0201, .0206, .0910.*

*The Agency has requested to recodify rules as follows:*

<i>RECODIFY EXISTING</i>	<i>12 NCAC 10B .0201</i>
<i>To</i>	<i>.0108</i>
<i>RECODIFY EXISTING</i>	<i>.0202</i>
<i>To</i>	<i>.0109</i>
<i>RECODIFY EXISTING</i>	<i>.0203</i>
<i>To</i>	<i>.0110</i>
<i>RECODIFY EXISTING</i>	<i>.0205</i>
<i>To</i>	<i>.0202</i>
<i>RECODIFY EXISTING</i>	<i>.0206</i>
<i>To</i>	<i>.0203</i>
<i>RECODIFY EXISTING</i>	<i>.0207</i>
<i>To</i>	<i>.0204</i>
<i>RECODIFY EXISTING</i>	<i>.0208</i>
<i>To</i>	<i>.0205</i>

*The proposed effective date of this action is January 1, 1992.*

*The public hearing will be conducted at 9:00 a.m. on September 18, 1991 at the Holiday Inn, Four Seasons, 3121 High Point Road, Greensboro, North Carolina.*

*Comment Procedures: Any person interested in these Rules may present oral or written comments relevant to the proposed action at the Public Rule-Making Hearing. Written statements not presented at the Hearing should be directed to Joan C. Neuner. The proposed rules are available for public inspection. Copies may be obtained at the following address: Department of Justice, Sheriffs' Standards Division, Post Office Drawer 629, Raleigh, NC 27602.*

**CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

**SUBCHAPTER 10B - NC SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

**SECTION .0200 - ENFORCEMENT RULES**

**.0201 INVESTIGATION OF VIOLATION OF RULES**

(a) If any criminal justice agency, school, authorized representative acting on behalf of either, or individual is reported to be or suspected of being in violation of any of these Rules, the Commission may take action to correct the violation and to ensure that similar violations do not occur.

(b) Before taking action against an agency, school, or individual for a violation, the Division shall investigate the alleged violation.

(c) The Commission may convene to consider these investigative reports or may delegate authority to the Director for further action.

(d) The Commission may:

- (1) direct the Division to conduct a further investigation of the alleged violation;
- (2) request the Attorney General to authorize an investigation of the violation by the State Bureau of Investigation;
- (3) direct the Division to conduct an administrative hearing in the matter; or
- (4) impose sanctions against the violator pursuant to this Section.

*Statutory Authority G.S. 17E-4; 17E-7.*

**.0202 .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the officer has committed or been convicted of:

- (1) a felony unless pardoned by the Governor; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years; or
- (3) an act or any series of acts which violates the laws of the State of North Carolina and which, in the opinion of the Sheriff, will affect his her ability to act or carry out the office and duties of a justice officer.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a time period specified by the Commission;
- (2) fails to meet or maintain any of the minimum employment standards required by 12 NCAC 10B;
- (3) fails to satisfactorily complete the minimum in-service training requirements as presented in 12 NCAC 10B .2000 and .2100;
- (4) has refused to submit to the drug screen as required in 12 NCAC 10B .0301(6) or .0406(b)(4) ~~in which case such sanction shall be permanent; or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6);~~
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 ~~or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 9A .0103(6), unless the positive result is explained to the Commission's satisfaction. such sanction shall be permanent.~~

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation ~~from the Commission or the North Carolina~~

Criminal Justice Education and Training Standards Commission;

(2) has knowingly and designedly by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;

(3) has aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission by means of deceit, fraud or misrepresentation. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by Sections .2000 and .2100.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(8)(b) as a Class B misdemeanor and which occurred after the date of initial certification; or
- (2) a crime or unlawful act defined in 12 NCAC 10B .0103(8)(b) as a Class B misdemeanor within the five-year period prior to the date of application for certification; or
- (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(8)(b) as Class B misdemeanors regardless of the date of commission or conviction; or
- (4) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(8)(a) as a Class A misdemeanor, each of which occurred after the date of initial certification; or
- (5) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(8)(a) as a Class A misdemeanor except the applicant may be certified if the last conviction or commission occurred more than two years prior to the date of application for certification.

*Statutory Authority G.S. 17E-7.*

**.0208 .0205 PERIOD OF SUSPENSION:  
REVOCATION: OR DENIAL**

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

(1) permanent where the cause of sanction is:

- (a) commission or conviction of a felony; or
- (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
- (e) a positive result on a drug screen, or a refusal to submit to a drug testing both pursuant to 12 NCAC 10B .0301; or
- (c) (1) the second revocation, suspension, or denial of an officer's certification for either of the two seven causes requiring a five-year period of revocation, suspension, or denial.

(2) not less than five years where the cause of sanction is:

- (a) commission or conviction of a crime other than those listed in Subparagraph (1) of this Rule; however, the Commission may either reduce or suspend the period of sanction under this Subparagraph or substitute a period of probation in lieu of revocation following an administrative hearing; or
- (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission; or
- (c) knowingly and designedly by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission; or
- (d) aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission by means of deceit, fraud or misrepresentation. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by Sections .2000 and .2100 of this Subchapter; or
- (e) failure to make either of the notifications as required by 12 NCAC 10B .0301(7); or
- (f) removal from office under the provisions of G.S. 128-16; or
- (g) a positive result on a drug screen, or a refusal to submit to drug testing both pursuant to 12 NCAC 10B .0301 and 12 NCAC 10B .0406, or in connection with

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an application for certification as a criminal justice officer as defined in 12 NCAC 9A .0103(6).

(3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exists, where the cause of sanction is:

- failure to meet or satisfy relevant basic training requirements; or
- failure to meet or maintain the minimum standards of employment; or
- discharge from a criminal justice agency for impairment of physical or mental capabilities; or
- failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .2100.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0206 SUMMARY SUSPENSIONS: OR DENIALS**

The Commission may summarily suspend or deny the certification of a justice officer or instructor when, in the opinion of the Commission, the public health, safety, or welfare requires this emergency action of summary suspension or denial. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Director, may utilize summary suspension or denial following a full investigation of the matter when:

- the applicant for certification or the certified justice officer has committed or been convicted of a violation of the criminal code which would require a permanent revocation or denial of certification; or
- the justice officer has failed to comply with the training requirements of 12 NCAC 10B .0500 and .0600; or
- the certified justice officer fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 10B .2100.

*Statutory Authority G.S. 150B-3(c).*

### **SECTION .0300 - MINIMUM STANDARDS FOR EMPLOYMENT AS A JUSTICE OFFICER**

#### **.0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS**

(a) Every Justice Officer certified as a Deputy Sheriff or Jailer in North Carolina shall:

- be a citizen of the United States;
- be at least 21 years of age;
- be a high school graduate, or the equivalent (GED);

- have been fingerprinted by the employing agency;
- have had a medical examination by a licensed physician;
- have produced a negative result on a drug screen administered according to the following specifications:
  - the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs; and
  - a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen; and
  - the drugs whose use shall be tested for shall include at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites; and
  - the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c); and
  - the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
  - the laboratory conducting the test must be certified for federal workplace drug testing programs, and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling, testing, storage and preservation of samples, except that individual agencies may specify other drugs to be tested for in addition to those drugs set out in Subsection (c) of this Rule;
- every agency head shall be responsible for making adequate arrangements for the services of a medical review officer (MRO) for the purpose of review of drug tests reported by the laboratory and such officer shall be a licensed physician.
- notify the Standards Division in writing of all criminal offenses which the officer pleads no contest to, pleads guilty to or is found guilty of. This shall include all criminal offenses except minor traffic offenses and shall

## ***PROPOSED RULES***

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specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense where the maximum punishment allowable is 60 days or less. The notifications required must specify the nature of the offense, the court in which the case was handled and the date of the conviction. The notifications must be received by the Standards Division within 30 days of the date the case was disposed of in court. ~~The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applications for certification.~~ Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's conviction(s), shall also notify the Division of all criminal convictions within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, is sufficient notice for compliance with this Subparagraph;

- (8) be of good moral character;
- (9) have a thorough background investigation conducted by the employing agency, to include a personal interview prior to employment;
- (10) not have committed or been convicted of a crime or crimes as specified in Rule .0307 of this Section.

(b) The requirements of this Rule shall apply to all applications for certification and shall also be applicable at all times during which the justice officer is certified by the Commission.

*Statutory Authority G.S. 17E-7.*

### **.0302 DOCUMENTATION OF EDUCATIONAL REQUIREMENT**

(a) Each applicant shall furnish documentary evidence of high school, college or university graduation to the employing agency. Documentary evidence consists of diplomas from recognized public schools or approved private schools, colleges or universities which meet approval guidelines of the North Carolina Department of Public Instruction or a comparable out of state agency.

(b) High School diplomas earned through correspondence courses are not recognized toward these minimum educational requirements.

(c) Documentary evidence of completion of the General Educational Development Test (GED) shall be satisfied by a certified copy of GED test results showing a total score of not less than 225 points, and a minimum score on any single test of 35 points, or by a copy of the applicant's GED diploma.

(d) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination will be acceptable as verified by a true copy of the veteran's DD214.

*Statutory Authority G.S. 17E-4.*

### **.0303 FINGERPRINT RECORDS CHECK**

(a) Each applicant for certification shall be fingerprinted twice using forms specified by the Division. Both fingerprint cards shall be forwarded to the State Bureau of Investigation (SBI) who will in turn, forward one card to the Federal Bureau of Investigation (FBI). A criminal history records check against State and Federal files will be conducted by both agencies based on those prints. Upon receipt from the SBI, ~~the employing agency shall retain the returned fingerprint card bearing the results of the criminal history records check in the applicant's personnel file. Upon receipt from the SBI, the Division shall retain the other returned fingerprint card bearing the results of the criminal history records check. The Division shall forward the original fingerprint card bearing the results of the criminal history records check to the employing agency who shall retain the card in the applicant's personnel file.~~

(b) Each applicant shall provide to the employing agency a certified copy of a check of the applicant's criminal history record from the Clerk of Court in each county where the applicant has resided within the preceding six months. The employing agency shall perform a criminal history records check of the agency's own files for each applicant. A certified copy of the results of all required criminal history records checks shall be forwarded with the applicant's Report of Appointment form (F-4) or (F-4A) to the Division. Additionally, a photocopy of the results of all required criminal history records checks shall be retained by the agency in the applicant's personnel file.

(c) Certifications issued prior to the receipt by the Division of the fingerprint and criminal history records check of state and federal files, as conducted by the SBI and FBI, are conditional. Such conditional certifications ~~shall~~ may auto-

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matically be terminated by the Commission upon receipt from the SBI or FBI of a fingerprint or criminal history records check that indicates that the officer has been convicted of an offense as specified in Rule .0307.

*Statutory Authority G.S. 17E-7.*

### **.0305 BACKGROUND INVESTIGATION**

(a) Prior to the background investigation done by the employing agency, the applicant shall complete the Commission's Personal History Statement (F-3) to provide a basis for the investigation. The Personal History Statement (F-3) submitted to the Division shall be completed no more than 120 days prior to:

- (1) the applicant's beginning the Jailer Certification Course and/or Basic Law Enforcement Training Course; or
- (2) the applicant's applying to the Commission for certification.

(b) If the Personal History Statement (F-3) was completed more than 120 days prior to the applicant's applying to the Commission for certification, the Personal History Statement (F-3) shall be updated or a new Personal History Statement (F-3) must be completed.

(c) The employing agency shall ensure the proper dates, signatures, and notarizations are affixed to the Personal History Statement (F-3) prior to submission to the Division.

(d) ~~(e)~~ The employing agency, prior to employment, shall examine the applicant's character traits and habits relevant to his/her performance as a justice officer and shall determine whether the applicant is of good moral character. The investigator shall summarize the results of the investigation on ~~the form supplied by the Division~~ a commission-approved form which shall be signed and dated by the investigator.

*Statutory Authority G.S. 17E-7.*

### **.0307 CRIMINAL HISTORY RECORD**

(a) Every justice officer employed in North Carolina shall not have committed or been convicted by a local, state, federal or military court of:

- (1) a felony, unless pardoned by the Governor; or
- (2) a crime for which the punishment could have been imprisonment for more than two years; or
- (3) an act, or any series of acts which violate the laws of the State of North Carolina and which, in the opinion of the sheriff, will affect his/her ability to act or carry

out the office and duties of a justice officer.

- (4) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of application for employment; or
- (5) four or more crimes or unlawful acts defined as "Class B Misdemeanors" regardless of the date of conviction; or
- (6) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment.

(b) Every justice officer employed in North Carolina shall also be subject to the requirements of 12 NCAC 10B .0204.

(c) The requirements of this Rule shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applications for certification.

*Statutory Authority G.S. 17E-7.*

## **SECTION .0400 - CERTIFICATION OF JUSTICE OFFICERS**

### **.0405 REPORT OF SEPARATION**

(a) An agency separating a person from employment or appointment as a justice officer shall, not later than ten days after separation, forward to the Division a completed Report of Separation (F-5).

(b) Although not presently required by these Rules, it is recommended by the Commission that the employing agency cancel the oath of office of a justice officer who has separated, and that the justice officer be notified by the employing agency of the effective date of separation as reported to the Division.

*Statutory Authority G.S. 17E-4.*

### **.0406 LATERAL TRANSFER/REINSTATEMENTS**

(a) An officer with general or grandfather certification who:

- (1) is currently certified; or
- (2) has been separated but has not been out of service for more than one year, may be appointed by an agency and certified upon compliance with this Rule .0406.

(b) In order for an officer to be certified pursuant to this Rule .0406 there must be:

- (1) verification by the employing agency of the officer's certification status with the Division;

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- (2) compliance with the requirements for fingerprints and criminal history records checks as specified in Rule .0303;
- (3) compliance with the requirement for Medical History Statement (F-1) and Medical Examination Report (F-2) specified in Rule .0304;
- (4) evidence of a negative result on a drug screen administered according to the specifications as outlined in 12 NCAC 10B .0301(6);
- (5) compliance with the Report of Appointment form requirement of ~~Rule .0403 (a); Rule .0403;~~
- (6) submitted to the Division, a copy of the Oath of Office for applicants requesting certification as a deputy sheriff;
- (7) evidence of satisfactory completion of the employing agency's in-service firearms training and requalification program pursuant to Sections .2000 and .2100; and
- (8) documentary evidence of high school, college or university graduation to the employing agency. Documentary evidence consists of diplomas from recognized public schools or approved private schools, colleges or universities which meet approval guidelines of the North Carolina Department of Public Instruction or a comparable out of state agency; or documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination will be acceptable as verified by a true copy of the veteran's DD214.

(c) An officer whose certification has been suspended pursuant to 12 NCAC 10B .0204(b)(1) may have that certification reinstated provided that:

- (1) the period of suspension has been one year or less; and

### SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS

#### .0505 EVALUATION FOR TRAINING WAIVER

(a) The Division staff shall evaluate each deputy's training and experience to determine if equivalent training has been satisfactorily completed as specified in Rule .0504(a). Applicants for certification with prior law enforcement experience shall have been employed in a sworn law enforcement position in order to be considered for training evaluation under this Rule. The following rules shall be used by Division staff in evaluating a deputy's training and experience to determine eligibility for a waiver of training.

- (1) Persons who separated from a sworn law enforcement position during their probationary period after having completed a commission-accredited Basic Law Enforcement Training Course and who have been separated from a sworn law enforcement position for more than one year shall complete a subsequent commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

- (2) the officer has successfully completed the basic training requirements as prescribed in 12 NCAC 10B .0500 or .0600.

- (d) Requirements of Paragraph (b) of this Rule are waived for officers whose certifications are reinstated pursuant to Paragraph (c) of this Rule.

*Statutory Authority G.S. 17E-4; 17E-7.*

#### .0408 VERIFICATION OF RECORDS TO DIVISION

(a) Prior to the initial certification of each justice officer, for the purpose of verifying compliance with these Rules, the employing agency shall submit to the Division, along with the Report of Appointment (F-4) and or (F-4A), copies of the following documents:

- (1) verification of the applicant's compliance with the educational requirement pursuant to Rule .0302(a);
- (2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
- (3) the applicant's Medical History Statement (F-1);
- (4) the applicant's Medical Examination Report (F-2 and F-2A);
- (5) the applicant's notarized Personal History Statement (F-3); and
- (6) a summary of the applicant's background investigation.

(b) Compliance with this Rule .0408(a) is waived for officers applying for dual certification as defined in Rule .0103(10) provided that:

- (1) the officer holds a valid certification as either a deputy sheriff or jailer with the employing agency requesting dual certification; and
- (2) the officer has not had a break in service since initial certification with the employing agency requesting dual certification.

*Statutory Authority G.S. 17E-4; 17E-7.*

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(2) Persons who separated from a sworn law enforcement position during their probationary period after having completed a commission-accredited Basic Law Enforcement Training Course and who have been separated from a sworn law enforcement position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.

(3) ~~Persons who separated from a sworn law enforcement position during their probationary period without having completed Basic Law Enforcement Training, or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1), and who have remained separated or suspended for over one year shall complete a commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).~~

(4) (→) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees:

(A) shall have a minimum of two years full-time sworn law enforcement experience;

(B) shall not have a break in service exceeding two years; and

(C) shall have successfully completed the Basic Law Enforcement Training Course accredited by the state from which he she is transferring. Out-of-state transferees meeting these requirements shall successfully complete a commission-accredited Basic Law Enforcement Training Course which includes the following topics of North Carolina law and procedure and successfully pass the State Comprehensive Examination in its entirety within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(i) Laws of Arrest, Search and Seizure	16 hours
(ii) Elements of Criminal Law	24 hours
(iii) Juvenile Laws and Procedures	8 hours
(iv) Controlled Substances	6 hours
(v) ABC Laws and Procedures	4 hours
(vi) Motor Vehicle Laws	20 hours
(vii) Civil Process	24 hours
(viii) Supplemental Custody Procedures	8 hours
(ix) Firearms Qualification (Handgun and Shotgun Courses)	
<hr/> TOTAL HOURS	
	110 hours

(5) (→) Persons previously holding Grandfather law enforcement certification in accordance with G.S. 17C-10(a) or G.S. 17E-7(a) who have been separated from a sworn law enforcement position for more than one year and who have not previously completed a minimum Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission and or the North Carolina Sheriffs' Education and Training Standards Commission shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(6) (→) Persons who have completed a minimum 160-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have been separated from a sworn law enforcement position for more than one year but no more than two years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Juvenile Law and Procedures	8 hours
(B) Laws of Arrest, Search and Seizure	16 hours
(C) Elements of Criminal Law	24 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Law Enforcement Driver Training	16 hours
(H) Civil Process	24 hours
(I) Supplemental Custody Procedures	8 hours
(J) Firearms Qualification (Handgun and Shotgun Courses)	
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## ***PROPOSED RULES***

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### **TOTAL HOURS**

126 hours

(7) (→) Persons who have completed a minimum 160-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have been separated from a sworn law enforcement position for more than two years shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety regardless of training and experience and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(8) (→) Persons who have completed a minimum 240-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	

### **TOTAL HOURS**

110 hours

(9) (→) Persons who have completed a minimum 240-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and who have been separated from a sworn law enforcement position for more than three years shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety regardless of prior training and experience and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(10) (→) Persons who have completed a minimum 381 hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning October 1, 1984 and ending December 31, 1988 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	

### **TOTAL HOURS**

110 hours

(11) (→) Persons transferring to a sheriff's department from another law enforcement agency who hold certification issued by the North Carolina Criminal Justice Education and Training Standards Commission and who have previously completed a minimum 369-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and

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Training Standards Commission under guidelines administered beginning October 1, 1984 and ending July 1, 1989 and who have been separated from a sworn law enforcement position for no more than one year or who have had no break in service shall be required to complete the following enumerated topics of a commission-accredited Basic Law Enforcement Training Course and successfully pass that portion of the State Comprehensive Examination which deals with those subjects within 12 months of the date of their Oath of Office as prescribed in 12 NCAC 10B .0503(a).

(A) Civil Process	24 hours
(B) Supplemental Custody Procedures	8 hours
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**TOTAL HOURS**

32 hours

(12) ~~(11)~~ Persons who have completed a minimum 369-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Commission under guidelines beginning October 1, 1984 and ending July 1, 1989 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	
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**TOTAL HOURS**

110 hours

~~(12) Persons who have completed a minimum 422-hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriffs' Education and Training Standards Commission under guidelines administered beginning January 1, 1989 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).~~

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Law and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	
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**TOTAL HOURS**

110 hours

(13) Persons transferring to a sheriff's department from another law enforcement agency who hold certification issued by the North Carolina Criminal Justice Education and Training Standards Commission and who have previously completed a commission-accredited 410-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning July 1, 1989 and ending February 1, 1991 and who have been separated from a sworn law enforcement position for no more than one year or who have had no break in service shall be required to complete the following enumerated topics of a commission-accredited Basic Law Enforcement Training Course and successfully pass that portion of the State Comprehensive Examination which deals with those subjects within 12 months of the date of their Oath of Office as prescribed in 12 NCAC 10B .0503(a).

(A) Civil Process	24 hours
(B) Supplemental Custody Procedures	8 hours
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TOTAL HOURS	32 hours
(14) Persons who have completed a minimum 422-hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriff's Education and Training Standards Commission under the guidelines administered beginning January 1, 1989 and ending <u>January</u> <u>February</u> 1, 1991 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).	
(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(II) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	
TOTAL HOURS	110 hours
(15) Persons who have previously completed a minimum 410-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning July 1, 1989 and ending February 1, 1991 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).	
(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(II) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	
TOTAL HOURS	110 hours
(16) Persons who have completed a minimum 444-hour Basic Law Enforcement Training Course accredited by the North Carolina Sheriffs' Education and Training Standards Commission under the guidelines administered beginning February 1, 1991 and who have been separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).	
(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(II) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	
TOTAL HOURS	110 hours
(17) Persons who have previously completed a minimum 432-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning February 1, 1991 and who have been	

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separated from a sworn law enforcement position for over one year but no more than three years shall be required to complete the following portions of a commission-accredited Basic Law Enforcement Training Course and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(A) Laws of Arrest, Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Civil Process	24 hours
(H) Supplemental Custody Procedures	8 hours
(I) Firearms Qualification (Handgun and Shotgun Courses)	

**TOTAL HOURS** **110 hours**

(18) Persons transferring to a sheriff's department from another law enforcement agency who hold certification issued by the North Carolina Criminal Justice Education and Training Standards Commission and who have previously completed a commission-accredited 432-hour Basic Law Enforcement Training Course accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning February 1, 1991 and who have been separated from a sworn law enforcement position for no more than one year or who have no break in service shall be required to complete the following enumerated topics of a commission-accredited Basic Law Enforcement Training Course and successfully pass that portion of the State Comprehensive Examination which deals with these subjects within 12 months of the date of their Oath of Office as prescribed in 12 NCAC 10B .0503(a).

(A) Civil Process 24 hours  
(B) Supplemental Custody 8 hours

**TOTAL HOURS** \_\_\_\_\_ **32 hours**

(19) Persons who have completed training as a federal law enforcement officer and are appointed as a sworn law enforcement officer in North Carolina shall be required to complete a commission-accredited Basic Law Enforcement Training Course in its entirety regardless of previous federal training and experience and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(20) Persons out of the law enforcement profession for over three years regardless of prior training or experience shall complete a commission-accredited Basic Law Enforcement Training Course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).

(21) Wildlife Enforcement Officers who completed the Basic Law Enforcement Training Course prior to September 30, 1985 and are sworn as justice officers shall be subject to the evaluation rules as stated in Rule .0505 Paragraphs (a)(1) and (a)(4) through (11).

(22) Wildlife Enforcement Officers who separate from employment with the Wildlife Enforcement Division and have less than one year break in service, who transfer to a Sheriff's Department in a sworn capacity, and who completed their Basic Training after September 30, 1985 shall complete the following blocs of instruction and pass the state exam in its entirety:

(A) Crime Prevention Techniques 4 hours  
(B) Mechanics of Arrest, Custody Procedures 2 hours

(B) Mechanics of Arrest: Custody Procedure  
(C) Mechanics of Arrest: Processing Arrestees

(C) Mechanics of Arrest: Processing Arrestee + hours  
(D) Special Populations 10-12 hours

(D) Special Populations  
(E) Techniques of Traffic Law Enforcement

(E) Techniques of Crime Law Enforcement 6 hours  
(E) Dealing with Victims and the Public 8 hours

(A) Dealing with Victims and the Public  
(G) Civil Process

(II) Supplemental Custody Procedures 8 hours

(I) Firearms Qualification (Handgun and Shotgun Courses)

TOTAL HOURS      66-68 hours

**TOTAL HOURS**        hours  
Wildlife Enforcement Officers who completed Basic Law Enforcement Training on or after

(25) Sworne Enforcement Officers who completed Basic Law Enforcement Training on or after September 30, 1985 and have been out of a sworn position over one year but no more than three years, and are sworn as a justice officer must complete the following blocs of instructions and pass the state exam in its entirety during their probationary period.

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(A) Laws of Arrest Search and Seizure	16 hours
(B) Elements of Criminal Law	24 hours
(C) Juvenile Laws and Procedures	8 hours
(D) Controlled Substances	6 hours
(E) ABC Laws and Procedures	4 hours
(F) Motor Vehicle Laws	20 hours
(G) Crime Prevention Techniques	4 hours
(H) Mechanics of Arrest: Custody Procedures	2 hours
(I) Mechanics of Arrest: Processing Arrestees	4 hours
(J) Special Populations	4 hours
(K) Techniques of Traffic Law Enforcement	6 hours
(L) Dealing with Victims and the Public	8 hours
(M) Civil Process	24 hours
(N) Supplemental Custody Procedures	8 hours
(O) Firearms Qualification ( <u>Handgun</u> and <u>Shotgun Courses</u> )	

**TOTAL HOURS**

(b) In those instances not specifically incorporated within this Section or where an evaluation of the applicant's prior training and experience determines that required attendance in the entire Basic Law Enforcement Training Course would be impractical, the director is authorized to exercise his/her discretion in determining the amount of training those persons shall complete during their probationary period.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0506 TRAINEE ATTENDANCE**

(a) Each trainee enrolled in an accredited ~~"Basic Recruit Training Law Enforcement"~~ course "Basic Law Enforcement Training Course" shall attend all class sessions. The sheriff shall be responsible for the trainee's regular attendance at criminal justice training courses in which the trainee is enrolled.

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed ten percent of the total class hours for the course offering.

(c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work and ensure the satisfactory completion of such work during the current course presentation or in a subsequent course delivery as is permissible under Rule 12 NCAC 10B .0507.

(d) A trainee shall not be eligible for administration of the State Comprehensive Examination nor certification for successful course completion if the cumulative total of class absences, with accepted make-up work, exceeds ten percent of the total class hours of the accredited course offering. Said participant should be expediently terminated from further course participation by the school director at the time of such occurrence.

(e) A school director may terminate a trainee from course participation or may deny certification of successful course completion where the

trainee is habitually tardy to, or regularly departs early from, class meetings or field exercises.

(f) Where a trainee is enrolled in a program as required in I2 NCAC 10B .0502, attendance shall be 100 percent in order to receive successful course completion.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0507 COMPLETION OF THE BASIC LAW ENFORCEMENT TRAINING COURSE**

(a) Each delivery of an accredited ~~"Basic Recruit Training Law Enforcement"~~ course "Basic Law Enforcement Training Course" is considered to be a unit. Each trainee shall attend and satisfactorily complete the full course during a scheduled delivery. The Director may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the trainee provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the ~~"Basic Recruit Training Law Enforcement"~~ course "Basic Law Enforcement Training Course" but through extended absence occasioned by illness, accident, emergency, or other good cause was absent for more than ten percent of the total class hours of the course offering; or
- (2) The trainee was granted excused absences by the school director that did not exceed ten percent of the total class hours for the

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course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in Rule 12 NCAC 10B .0506(c) due to valid reasons; or

(3) The trainee participated in an offering of the ~~"Basic Recruit Training Law Enforcement"~~ course "Basic Law Enforcement Training Course" but had an identified deficiency in essential knowledge or skill in either one, two or three, but no more than three, of the specific topic areas incorporated in course content as prescribed under Rule 12 NCAC 10B .0502(a).

(b) An authorization of limited enrollment in a subsequent course delivery may not be issued by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

(1) The sheriff of the agency employing the trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished within the period of the trainee's probationary certification; and

(2) The school director of the previous course offering submits to the director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of the ~~"Basic Recruit Training Law Enforcement"~~ course "Basic Law Enforcement Training Course" commencing within 120 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with active course participation can be accomplished within the period of the trainee's probationary certification:

(1) The trainee need only attend and satisfactorily complete those portions of the course which were missed or were identified by the school director as areas of trainee deficiency in the prior course participation.

(2) Following proper enrollment in the subsequent course offering, scheduled class attendance, and active participation with satisfactory achievement in the course, the trainee would be eligible for administration of the State Comprehensive Examination by the Commission and possible certification of successful course completion.

(d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery shall complete a subsequent program in its entirety within the trainee's probationary period.

*Statutory Authority G.S. 17E-4; 17E-7.*

### .0508 COMP WRITTEN EXAM-BASIC LAW ENFORCEMENT TRAINING COURSE

(a) At the conclusion of a school's offering of the ~~"Basic Recruit Training Law Enforcement"~~ course, "Basic Law Enforcement Training Course", an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the course work. A trainee cannot be administered the comprehensive written examination until such time as all course work is completed.

(b) The examination shall be an objective test consisting of multiple-choice, true-false, or similar questions covering the topic areas as prescribed in 12 NCAC 10B .0502(a).

(c) The Commission's representative shall submit to the school director within five days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination if he/she achieves a minimum of 70 percent correct answers.

(e) A trainee who has fully participated in a scheduled delivery of an accredited training course and has demonstrated satisfactory competence in each motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee.

(1) The trainee's Request of Re-examination shall be made in writing on the Commission's form within 90 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a deputy sheriff.

(2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's ~~"Basic Recruit Training Law Enforcement"~~ course "Basic Law Enforcement Training Course".

(3) A trainee shall have only one opportunity for re-examination and shall satisfactorily

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complete the subsequent examination in its entirety.

(4) The trainee will be assigned in writing by the division place, time, and date for re-examination.

(5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the examination, the trainee may not be recommended for certification and must enroll and complete a subsequent basic training course in its entirety before further examination may be permitted.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0509 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS**

In order to satisfy the minimum training requirements for certification as a law enforcement officer, a trainee shall:

- (1) achieve a score of 70 percent correct answers on the Commission - administered comprehensive written examination;
- (2) demonstrate successful completion of an accredited offering of the "Basic Recruit Training Law Enforcement" course "Basic Law Enforcement Training Course" as shown by the certification of the school director;
- (3) demonstrate proficiency in all motor-skill and performance subjects by achieving a minimum passing grade as specifically established in each of the topical areas in the Commission's adopted "Basic Law Enforcement Training Manual"; and
- (4) obtain the recommendation of the trainee's school director that the trainee possesses at least the minimum degree of general attributes, knowledge, and skill to function as an inexperienced deputy sheriff.

*Statutory Authority G.S. 17E-4; 17E-7.*

## **SECTION .0600 - MINIMUM STANDARDS OF TRAINING FOR JAILERS**

### **.0601 JAILER CERTIFICATION COURSE**

(a) This Section establishes the current minimum standard by which Sheriffs' Department personnel shall receive jailer training. These rules will serve to raise the level of jailer training heretofore available to law enforcement officers across the state. The Jailer Certification Course shall consist of a minimum of 120 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Jailer Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

(1) Orientation Pretest	+ hour
(2) Civil Liability in the Jail	+ hour
(3) The American Jail: Its Origin and Development	+ hour
(4) Legal Rights and Responsibilities Within the Corrections Environment	12 hours
(5) Processing Inmates: Booking, Intake, Classification and Release Procedures	8 hours
(6) Transportation of Inmates	4 hours
(7) Written Communication	3 hours
(8) Introduction to the Minimum Standards for the Operation of Local Confinement Facilities in North Carolina	3 hours
(9) Role Concepts, Attitudes and Interpersonal Communication	2 hours
(10) Disciplinary Procedures in the Jail	2 hours
(11) Key and Tool Control	+ hour
(12) Hostage Incidents in the Jail	2 hours
(13) Stress	3 hours
(14) Recreation and Visiting	2 hours
(15) Medical Care in the Jail	4 hours
(16) Patrol and Emergency Procedures	3 hours
(17) Suicide and Jails	3 hours
(18) Homosexuality and Jails	+ hour
(19) Supervision of Inmates	6 hours
(20) Psychological Disorders: Psychotic and Neurotic Personality	4 hours
(21) Contraband Searches	6 hours

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(22) Handling Fire Emergencies: Chemistry and Evacuation	4 hours
(23) Handling Fire Emergencies: Classification and Extinguishing	4 hours
(24) Unarmed Self Defense	18 hours
(25) Practicals	1 hour
(26) Standard First Aid or other commission approved course	8 hours
(27) Communicable Diseases	3 hours
(28) Review	3 hours
(29) Testing	3 hours
(30) Exam	4 hours

**TOTAL HOURS**

**120 hours**

(1) Disciplinary Procedures	2 hours
(2) Contraband Searches	6 hours
(3) Transportation of Inmates	6 hours
(4) Processing Inmates	5 hours
(5) Patrol and Emergency Procedures	5 hours
(6) Recreation and Visiting	2 hours
(7) Key and Tool Control	1 hour
(8) Stress	2 hours
(9) Special Populations	5 hours
(10) Medical Care in the Jail	11 hours
(11) Standard First Aid	8 hours
(12) Unarmed Self-Defense	18 hours
(13) Written Communication	3 hours
(14) Legal Rights and Responsibilities	12 hours
(15) Civil Liability	2 hours
(16) Suicides in the Jail	4 hours
(17) Introduction to Rules and Regulations Governing Jail Facilities	3 hours
(18) Role of the Jailer in Supervision, Communication, and Crisis Management	6 hours
(19) Handling Fire Emergencies	16 hours
(20) Investigative Duties of the Jailer	4 hours
(21) Legal Aspects of Criminal Investigation	3 hours
(22) Testifying in Court	4 hours
(23) Physical Assessment of Jailers	4 hours
(24) Commission Exam	3 hours

**TOTAL**

**135 hours**

(c) In addition to the requirements of Paragraph (b) of this Rule, the reading component of a standardized test shall be administered to each trainee within the first two weeks of the Jailer Certification Course, and the reading grade level reported as a part of the trainee's official training records.

(d) (4) Consistent with the curriculum development policy of the Commission, the Commission shall designate the developer of the Jailer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Jailer Certification Courses. Individuals who successfully complete such a pilot Jailer Certification Course offering shall be deemed to have successfully complied with and satisfied the minimum training requirement.

(e) (4) The "Jailer Certification Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c) to apply as the basic curriculum for the Jailer Certification Course.

(f) (4) The "Jailer Certification Course Management Guide" as published by the North Carolina Justice Academy is hereby adopted by reference and shall automatically include any later amendments, editions of the adopted matter as authorized by G.S. 150B-14(c) to be used by certified school directors in planning, implementing and delivering basic jailer training. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the accredited school.

*Statutory Authority G.S. 17E-4(a).*

**.0603 EVALUATION FOR TRAINING WAIVER**

(a) The following rules shall be used by division staff in evaluating a jailer's training and experience to determine eligibility for a waiver of training:

- (1) Persons who have separated from a jailer position during the probationary period after having completed a commission-accredited jailer training course and who have been separated from a jailer position for more than one year shall complete a subsequent commission-accredited jailer training course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as described in 12 NCAC 10B .0602(a).
- (2) Persons who separated from a jailer position during their probationary period after having completed a commission-accredited jailer training course and who have been separated from a jailer position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.
- (3) Persons who separated from a jailer position during the probationary period without having completed a jailer training course or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1) and who have remained separated or suspended for over one year shall complete a commission-accredited jailer training course in its entirety and successfully pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (4) ~~(3)~~ Persons holding General Jailer Certification who have completed a commission-accredited jailer training course and who have separated from a jailer position for more than one year shall complete a subsequent commission-accredited jailer training course in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (5) ~~(4)~~ Persons holding Grandfather Jailer Certification who separate from a jailer position and remain separated from a jailer position for more than one year shall be required to complete a commission-accredited jailer training program in its entirety and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).

(6) ~~(5)~~ Persons transferring to a sheriff's department from another law enforcement agency who hold a jailer certification issued by the North Carolina Criminal Justice Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. The Division staff shall determine the amount of training required of these applicants.

(b) In those instances not specifically incorporated within this Section or where an evaluation of the applicant's prior training and experience determines that required attendance in the entire Jailer Training Course would be impractical, the director is authorized to exercise his/her discretion in determining the amount of training those persons shall complete during their probationary period.

*Statutory Authority G.S. 17E-4; 17E-7.*

**.0604 TRAINEE ATTENDANCE**

(a) Each trainee enrolled in an accredited "Jailer Training Certification Course" shall attend all class sessions. The sheriff shall be responsible for the trainee's regular attendance at all sessions of the jailer training course.

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed ten percent of the total class hours for the course offering.

(c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work and ensure the satisfactory completion of such work during the current course presentation or in a subsequent course delivery as is permissible under 12 NCAC 10B .0605.

(d) A trainee shall not be eligible for administration of the State Comprehensive Examination nor certification for successful course completion if the cumulative total of class absences, with accepted make-up work, exceeds ten percent of the total class hours of the accredited course offering and should be expediently terminated from fur-

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ther course participation by the school director at the time of such occurrence.

(e) The school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is habitually tardy to, or regularly departs early from, class meetings or field exercises.

(f) Where a trainee is enrolled in a program as required in 12 NCAC 10B .0601, attendance shall be 100 percent in order to receive a successful course completion.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0605 COMPLETION OF JAILER CERTIFICATION COURSE**

(a) Each delivery of an accredited "Jailer Training" course "Jailer Certification Course" is considered to be a unit. Each trainee shall attend and satisfactorily complete a full course during a scheduled delivery. The Director may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the trainee provides evidence that:

(1) The trainee attended and satisfactorily completed specified class hours and topics of the "Jailer Training" course but through extended absence occasioned by illness, accident, emergency, or other good cause was absent for more than ten percent of the total class hours of the course offering; or

(2) The trainee was granted excused absences by the school director that did not exceed ten percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in 12 NCAC 10B .0604(c) due to valid reasons; or

(3) The trainee participated in an offering of the "Jailer Certification Course" but had an identified deficiency in essential knowledge or skill in either one, two or three, but no more than three, of the specified topic areas incorporated in the course content as prescribed under 12 NCAC 10B .0601(b).

(b) An authorization of limited enrollment in a subsequent course delivery may not be used by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

(1) The sheriff of the agency employing the trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished within the

period of the trainee's probationary certification; and

(2) The school director of the previous school offering submits to the director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of the "Jailer Training" course "Jailer Certification Course" commencing within 120 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with active course participation can be accomplished within the period of the trainee's probationary certification:

(1) The trainee need only attend and satisfactorily complete those portions of the course which were missed or identified by the school director as areas of trainee deficiency in the proper course participation.

(2) Following proper enrollment in the subsequent course offering, scheduled class attendance and active participation with satisfactory achievement in the course, the trainee would be eligible for administration of the State Comprehensive Examination by the Commission and possible certification of successful course completion.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0606 COMP WRITTEN EXAM - JAILER CERTIFICATION COURSE**

(a) At the conclusion of a school's offering of the "Jailer Training Course", "Jailer Certification Course", an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the course work. A trainee cannot be administered the comprehensive written examination until such time as all course work is successfully completed.

(b) The examination shall be an objective test consisting of multiple-choice, true-false, or similar questions covering the topic areas as described in 12 NCAC 10B .0601(b).

(c) The Commission's representative shall submit to the school director within ten days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination if he/she achieves a minimum of 70 percent correct answers.

## ***PROPOSED RULES***

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(e) A trainee who has fully participated in a scheduled delivery of an accredited training course and has demonstrated satisfactory competence in each motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee.

- (1) A trainee's Request for Re-examination shall be made in writing on the Commission's form within 90 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a jailer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's Jailer Training Course, "Jailer Certification Course".
- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent examination in its entirety.
- (4) A trainee will be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the examination, the trainee may not be recommended for certification and must enroll and complete a subsequent course in its entirety before further examination may be permitted.

*Statutory Authority G.S. 17E-4; 17E-7.*

### **.0607 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS**

In order to satisfy the minimum training requirements for certification as a jailer, a trainee shall:

- (1) achieve a score of 70 percent correct answers on the Commission-administered comprehensive written examination;
- (2) demonstrate successful completion of an accredited offering of the Jailer Training Course "Jailer Certification Course" as shown by the certification of the school director; and
- (3) obtain the recommendation of the trainee's school director that the trainee possesses at least the minimum degree of general attributes, knowledge, and skill to function as an inexperienced jailer.

*Statutory Authority G.S. 17E-4; 17E-7.*

## **SECTION .0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

### **.0703 ADMINISTRATION OF JAILER CERTIFICATION COURSE**

(a) The executive officer or officers of the institution or agency sponsoring a Jailer Training Certification Course shall have primary responsibility for implementation of these rules and standards and for administration of the school.

(b) The executive officers shall designate a compensated staff member who is certified by the Commission who may apply to be the school director. The school director shall have administrative responsibility for planning scheduling, presenting, coordinating, reporting, and generally managing each sponsored jailer training course.

(c) The executive officers of the institution or agency sponsoring the Jailer Training Certification Course shall:

- (1) acquire and allocate sufficient financial resources to provide commission-certified instructors and to meet other necessary program expenses;
- (2) provide adequate secretarial, clerical, and other supportive staff assistance as required by the school director;
- (3) provide or make available suitable facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, specifically including the following:
  - (A) a comfortable, well-lighted and ventilated classroom with a seating capacity sufficient to accommodate all attending trainees;
  - (B) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of effective training;
  - (C) a library for trainees' use covering the subject matter areas relevant to the training course, maintained in current status and having sufficient copies for convenient trainee access;
  - (D) Where required by course content, provide or make available facilities, equipment, and supplies to provide training in physical and motor-skill exercises such as handling disruptive people, CPR, handling fire emergencies and cell searches.

*Statutory Authority G.S. 17E-4.*

### **.0704 RESPONSIBILITIES: SCHOOL DIRECTORS**

## PROPOSED RULES

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(a) In planning, developing, coordinating, and delivering each commission accredited Jailer Training Certification Course, the school director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the Commission.
  - (A) The Jailer Certification Training Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed.
  - (B) In the event of exceptional or emergency circumstances, the Director may, upon written finding of justification, grant a waiver of the minimum hours requirement.
- (2) Select and schedule qualified instructors who are properly certified by the Commission. The selecting and scheduling of instructors is subject to special requirements as follows:
  - (A) No single individual may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any one delivery except as set forth in (2)(B).
  - (B) Where the school director shows exceptional or emergency circumstances and the school director documents that an instructor is qualified to instruct more than 35 percent of the total hours of the curriculum, the Director of the Division may grant written approval for the expansion of the individual instructional limitation.
- (3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities.
- (4) Review each instructor's lesson plans and other instructional materials for conformance to established commission standards and to minimize repetition and duplication of subject matter.
- (5) Shall permanently maintain records of all Jailer Training Certification Courses sponsored or delivered by the school, reflecting:
  - (A) Course title;
  - (B) Delivery hours of course;
  - (C) Course delivery dates;
  - (D) Names and addresses of instructors utilized within designated subject-matter areas;
  - (E) A roster of enrolled trainees, showing class attendance and designating whether each trainee's course participation was successful or unsuccessful;

(F) Copies of all rules, regulations and guidelines developed by the school director;

(G) Documentation of any changes in the initial course outline, including substitution of instructors; and

(H) Documentation of make-up work achieved by each individual trainee, including test scores and methods.

- (6) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic areas.
- (7) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
  - (A) Effective course delivery;
  - (B) Establishing responsibilities and obligations of agencies or departments employing course trainees; and
  - (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records. A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
- (8) If appropriate, recommend housing and dining facilities for trainees.
- (9) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following attachments:
  - (A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;
  - (B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for Professional Lecturer Certification.
  - (C) The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission mandated rules and regulations; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval will be withheld.

## ***PROPOSED RULES***

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until all matters are in compliance with the Commissions' rules.

(10) Administer the course delivery in accordance with commission-approved procedures, guidelines, and standards and ensure that the training offered is as effective as possible.

(11) Monitor the presentations of all probationary instructors during course delivery and prepare formal written evaluations on their performance and suitability for subsequent instructional assignments. These evaluations shall be prepared on commission-approved forms and forwarded to the Commission Division at the conclusion of each delivery. Based on this evaluation the school director shall have the added responsibility for recommending approval or denial of requests for General Jail Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification.

(12) Monitor the presentations of all other instructors during course delivery and prepare formal written evaluations on their performance and suitability for subsequent instructional assignments. Instructor evaluations shall be prepared on commission-approved forms in accordance with commission standards. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request.

(13) Administer or designate a qualified person to administer appropriate tests as determined necessary at various intervals during course delivery.

(14) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.

(15) During a delivery of the Jailer Certification Training Course, make available to authorized representatives of the Commission four ~~three~~ hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work.

(16) Not more than ten days after receiving from the Commission's representative the Report of Examination Scores, the school director shall submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B).

*Statutory Authority G.S. 17E-4.*

**.0705 CERTIFICATION: SCHOOL DIRECTORS**

(a) Any person designated to act as, or who performs the duties of, a school director in the delivery or presentation of a commission-accredited jailer training course shall be and continuously remain certified by the Commission as a school director.

(b) To qualify for certification as school director of the Jailer Training Certification Course, the applicant shall:

- (1) Submit a written request for the issuance of such certification executed by the executive officer of the institution or agency currently accredited, or which may be seeking accreditation, by the Commission to make presentation of accredited training programs and for whom the applicant will be the designated school director.
- (2) Be currently certified as a criminal justice instructor by the North Carolina Criminal Justice Education and Training Standards Commission; and
- (3) Attend or must have attended the most current offering of the school director's conference as presented by the Commission staff and staff of the North Carolina Criminal Justice Education and Training Standards Commission and Standards Division.

*Statutory Authority G.S. 17E-4.*

**SECTION .0800 - ACCREDITATION OF JUSTICE OFFICER SCHOOLS AND TRAINING COURSES**

**.0803 REPORTS/JAILER CERT COURSE PRESENTATION/COMPLETION**

Each presentation of the Jailer Training Certification Course shall be reported to the Commission as follows:

- (1) After acquiring accreditation for the course and before commencing each delivery of the course, the school director shall, no less than 30 days prior to the scheduled delivery, notify the Commission Division of the school's intent to offer the training course by submitting a Pre-Delivery Report of Training Course Presentation (Form F-7A); and
- (2) Upon completing delivery of the accredited course, and not more than ten days after receiving from the Commission's representative the Report of Examination Scores, the school director shall notify the Commission

Division regarding the progress and achievement of each enrolled trainee by submitting a Post-Delivery Report of Training Course Presentation (Form F-7B). This report shall also include each trainee's reading grade level as determined by testing required in 12 NCAC 10B .0601(c).

*Statutory Authority G.S. 17E-4; 17E-7.*

**SECTION .0900 - MINIMUM STANDARDS FOR JUSTICE OFFICER INSTRUCTORS**

**.0901 CERT/INSTRUCTORS/BASIC LAW ENFORCEMENT TRAINING COURSE**

The rules covering the certification of instructors, codified as Title 12, Subchapter 9B, Section .0300 of the North Carolina Administrative Code, and previously adopted by the North Carolina Criminal Justice Education and Training Standards Commission, are hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matters as authorized by G.S. 150B-14(e), to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission with the exception of instructors for the Jailer Certification ~~Training~~ Course and instructors for the Physical Fitness topical area of the Basic Law Enforcement Training Course.

*Statutory Authority G.S. 17E-4.*

**.0905 TERMS AND CONDITIONS OF GENERAL JAILER INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for certification as a General Jail Instructor shall, for the first 12 months of certification, be in a probationary status. The General Jail Instructor Certification, probationary status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor will be awarded full General Jail Instructor Certification at the end of the probationary period if the instructor submits to the ~~Commission~~ Division:

- (1) a favorable recommendation from a school director accompanied by certification on a commission-approved Instructor Evaluation Form that the instructor satisfactorily taught a minimum of four hours in a commission-accredited jailer training course during his/her probationary year; or
- (2) a favorable written evaluation by a commission member or staff member based on an on-site classroom evaluation of the probationary instructor in a commission-accredited jailer training course. Such

evaluation will be certified on a commission-approved Instructor Evaluation Form. In addition, instructors evaluated by a commission or staff member must also teach a minimum of four hours in a commission-accredited Jailer Training Course during his/her probationary year.

(c) General Jailer Instructor Certification is continuous so long as the instructor submits to the ~~Commission~~ Division every two years:

- (1) a favorable recommendation from a school director accompanied by certification on a commission-approved Instructor Evaluation Form that the instructor satisfactorily taught a minimum of four hours in a commission-accredited jailer training course during the previous two year period. The date General Instructor Certification is originally issued is the anniversary date from which each two year period is figured; or
- (2) a favorable written evaluation by a commission member or staff member based on a minimum four hour, on-site classroom observation of the instructor in a commission-accredited Jailer ~~Training~~ Certification Course.

(d) If an instructor does not teach a minimum of four hours during each two year period following the awarding of his General Jailer Instructor Certification, his/her certification automatically expires, and the instructor must then apply for probationary instructor certification status and must meet all applicable requirements.

*Statutory Authority G.S. 17E-4.*

**.0906 PROFESSIONAL LECTURER CERTIFICATION**

(a) The Commission may issue Professional Lecturer Certification to a person in a formally recognized profession, i.e., medicine, law, psychology, who by virtue of their formal academic degree(s) have developed special expertise.

(b) To be eligible for such certification an applicant shall present documentary evidence demonstrating that the applicant has:

- (1) graduated from an accredited law school, medical school or other school accredited for conferring degrees in formally recognized professions acceptable to the Commission;
- (2) obtain the endorsement of a commission recognized school director who shall:
  - (A) recommend the applicant for certification as a professional lecturer; and

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(B) describe the applicant's expected participation, topical areas, duties and responsibilities.

(c) Only licensed attorneys-at-law holding Professional Lecturer Certification may teach the following topics:

- (1) Civil Liability in the Jail;
- (2) Legal Rights and Responsibilities; Within the Corrections Environment;
- (3) Legal Aspects of Criminal Investigation.

*Statutory Authority G.S. 17E-4.*

### **.0908 LIMITED LECTURER CERTIFICATION**

(a) The Commission may issue a Limited Lecturer Certification to an applicant who has developed specific or special skills by virtue of specific or special training. Limited Lecturer Certification may be issued in the following topical areas:

- (1) Standard First Aid or other commission-approved course;
- (2) Unarmed Self Defense;
- (3) Handling Fire Emergencies; Chemistry and Evacuation;
- (4) Handling Fire Emergencies: Classification and Extinguishing;
- (4) (5) Medical Care in the Jail;
- (5) Physical Assessment of Jailers;
- (6) Psychological Disorders: Psychotic and Neurotic Personality;
- (7) Communicable Diseases;
- (8) Transportation of Inmates;
- (9) Stress;
- (10) Written Communication.

(b) To be eligible for a Limited Lecturer Certificate for topic areas set forth in Rule .0908(a), the applicant must meet the qualifications as follows:

- (1) Standard First Aid or other commission-approved course: Certified Standard First Aid Instructor with the American Red Cross or a licensed physician, Family Nurse Practitioner, Licensed Practical Nurse (LPN), Registered Nurse (RN), Physician's Assistant, or EMT;
- (2) Unarmed Self Defense: successful completion of N.C. Department of Corrections Specialized Instructor Training - Unarmed Self-Defense; certified by N.C. Criminal Justice Education and Training Standards Commission as specific Corrections Unarmed Self Defense Instructor;
- (3) Handling Fire Emergencies: Chemistry and Evacuation; Certified Fire Instructor;
- (4) Handling Fire Emergencies: Classification and Extinguishing; Certified Fire Instructor;

- (4) (5) Medical Care in a Jail: A Licensed Physician, Family Nurse Practitioner, LPN, RN, or EMT, or Physician's Assistant;
- (5) Physical Assessment of Jailers: certified as a Physical Fitness Instructor by the North Carolina Criminal Justice Education and Training Standards Commission;
- (6) Psychological Disorders: Psychotic and Neurotic Personality: A licensed Psychiatrist, Psychologist, RN, or person holding a degree in counseling, psychiatric nursing, or psychiatric social work;
- (7) Communicable Diseases: a licensed Physician, Family Nurse Practitioner, Licensed Practical Nurse (LPN), Registered Nurse (RN), Physician's Assistant, or EMT;
- (8) Transportation of Inmates: A certified instructor with the North Carolina Criminal Justice Education and Training Standards Commission with a minimum of two years of related or relevant experience;
- (9) Stress: A certified instructor with the North Carolina Criminal Justice Education and Training Standards Commission with a minimum of two years of related or relevant experience;
- (10) Written Communication: A certified instructor with the North Carolina Criminal Justice Education and Training Standards Commission with a minimum of two years of related or relevant experience; or a person with a four year degree with a major in English.

*Statutory Authority G.S. 17E-4.*

### **.0909 TERMS AND CONDITIONS OF A LIMITED LECTURER CERTIFICATION**

(a) An applicant meeting the requirements for certification as a Limited Lecturer shall, for the first 12 months of certification, be in a probationary status. The Limited Lecturer Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor will be eligible for full Limited Lecturer status at the end of the probationary period if the instructor, through application, submits to the Commission:

- (1) a favorable recommendation from a school director accompanied by certification on a commission-approved Instructor Evaluation Form that the instructor taught at least four hours (three hours each for topics of Stress, Written Communication and Communicable Diseases) in each one

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or more of the topics for which Limited Lecturer Certification, Probationary Status was granted. Such instruction must have occurred in a commission-accredited jailer training course during the probationary period. The results of the student evaluation must be considered by the school director when determining the recommendation; or

(2) a favorable written evaluation by a commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a commission-accredited jailer training course. Such evaluation must be certified on a commission-approved Instructor Evaluation Form completed for each one or more of the topics where the probationary instructor taught a minimum of four hours. (three hours each for topics of Stress and Written Communication) and for which Limited Lecturer Certification was granted.

(c) The term of certification as a Full Limited Lecturer Certification shall be continuous so long as all other certifications required in 12 NCAC 10B .0908 remain valid, and so long as the lecturer submits to the Division every two years, within two years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for two year periods. The application for renewal shall contain, in addition to the requirements listed in Rule .0907(b), documentary evidence that the applicant has remained active in the instructional process during the previous two year period. Such documentary evidence shall include, at a minimum, the following:

(i) proof that the applicant has, within the two year period preceding application for renewal, instructed at least four hours (three hours each for topics of Stress and Written Communications) in each of the topics for which Limited Lecturer Certification was granted in a commission-accredited jailer training course, and

(II) (2) a favorable written recommendation from a school director accompanied by certification on a commission-approved instructor evaluation form that the applicant lecturer successfully taught at least four hours (three hours each for topics of Stress and Written Communication) in each one or more of the topics for which Limited Lecturer Certification was granted within during the previous two-year period; or of Limited Lecturer Certification.

(2) a favorable written evaluation by a commission member or staff member based on an on-site classroom observation of the lecturer while teaching a minimum of four hours in one or more of the topics for which Limited Lecturer Certification was granted.

(d) The date Full Limited Lecturer Certification is originally issued is the anniversary date from which each two-year period is figured.

(e) If a lecturer does not teach a minimum of four hours during each two-year period following the awarding of Full Limited Lecturer Certification, his/her certification automatically expires, and the lecturer must then apply for probationary limited lecturer certification and must meet all applicable requirements.

(f) Upon application for recertification, such applicants shall be required to meet the minimum requirements of this Section.

(g) The use of guest participants in a delivery of the Jailer Training Course is permissible. However, such guest participants are subject to the direct on-site supervision of a commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the topic area and shall in no way replace the primary instructor.

Statutory Authority G.S. 17E-4.

### .0910 USE OF GUEST PARTICIPANTS

The use of guest participants in a delivery of the Jailer Certification Course is permissible. However, such guest participants are subject to the direct on-site supervision of a commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the topic area and shall in no way replace the primary instructor.

Statutory Authority G.S. 17E-4.

## SECTION .1000 - PROFESSIONAL CERTIFICATE PROGRAM FOR SHERIFFS AND DEPUTY SHERIFFS

### .1001 PURPOSE

In order to recognize the level of competence of sheriffs and deputy sheriffs serving the sheriffs' departments of North Carolina, to foster increased interest in college education and professional law enforcement training programs and to attract highly qualified individuals into a law enforcement career, the North Carolina Sheriffs' Education and Training Standards Commission establishes the Sheriffs and Deputy Sheriffs' Pro-

## ***PROPOSED RULES***

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fessional Certificate Program. This program is a method by which dedicated sheriffs and deputy sheriffs may receive local, state-wide and nationwide recognition for education, professional training and on-the-job experience.

*Statutory Authority G.S. 17E-4.*

### **.1002 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the professional awards, a sheriff or deputy sheriff shall first meet the following preliminary qualifications:

- (1) Be an elected or appointed sheriff or be a deputy sheriff who holds valid General or Grandfather Certification. A deputy sheriff serving under a probationary certification is not eligible for consideration.
- (2) The sheriff or deputy sheriff shall be familiar with and subscribe to the Law Enforcement Code of Ethics.
- (3) If the applicant is a deputy sheriff, the deputy shall be a sworn member of a North Carolina Sheriff's Department, as certified in writing by the sheriff; or be an employee of an agency who must be sworn by the sheriff in order to perform his duties as certified in writing by the Sheriff.
- (4) Employees of a North Carolina Sheriff's Department who have previously held general or grandfather law enforcement officer certification but are presently, by virtue of promotion or transfer, serving in non-sworn positions not subject to certification are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with the sheriff's department from the date of promotion or transfer from a sworn, certified position to the date of application for a professional certificate.

### **.1004 INTERMEDIATE LAW ENFORCEMENT CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1002, applicants for the Intermediate Law Enforcement Certificate shall possess or be eligible to possess the Basic Law Enforcement Certificate and shall have acquired the following combination of educational points or degrees, law enforcement training points and years of law enforcement training experience:

- (5) Only training and/or experience gained in an officer's area of expertise will be eligible for application to this program.

(b) Certificates are awarded based upon a formula which combines formal education, law enforcement training, and actual experience as a law enforcement officer. These professional certificates are appropriate for sworn sheriffs and deputy sheriffs. Points are computed in the following manner:

- (1) Each semester hour of college credit shall equal one point and each quarter hour shall equal two-thirds of a point;
- (2) Twenty classroom hours of commission-approved law enforcement training shall equal one point;
- (3) Only experience as a sworn member of a law enforcement agency or equivalent experience shall be acceptable for consideration;
- (4) Applicants holding degrees will not be awarded additional points for those degrees and must instead meet the training point requirements of this Section through completion of law enforcement training.

*Statutory Authority G.S. 17E-4.*

### **.1003 BASIC LAW ENFORCEMENT CERTIFICATE**

In addition to the qualifications set forth in Rule .1002, an applicant for the Basic Law Enforcement Certificate ~~shall have no less than one year of service, and shall:~~

- (1) have no less than one year of service; and
- (2) have successfully completed a commission-accredited basic law enforcement training course; or
- (3) have completed a minimum of 160 hours of training in the field of law enforcement.

*Statutory Authority G.S. 17E-4.*

## ***PROPOSED RULES***

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Educational Degrees		AA/AS		AB/BS
Years of Law Enforcement Experience	8    6    4    4			2
<u>Minimum Law Enforcement Training Points</u>		<u>24</u>		<u>23</u>
<u>Minimum Law Enforcement Training Points</u>	<u>20    35    50    24</u>			<u>23</u>
Minimum Total Education and Training Points	39    69    99    24			23

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the recognized national accrediting body, or the state university of the state in which the institution is located.

*Statutory Authority G.S. 17E-4.*

### **.1005 ADVANCED LAW ENFORCEMENT CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1002, applicants for the Advanced Law Enforcement Certificate shall possess or be eligible to possess the Intermediate Law Enforcement Certificate and shall have acquired the following combination of educational points or degrees, law enforcement training points and years of law enforcement experience:

Educational Degrees		A/AS	AB/BS	GRAD. /PRO.
Years of Law Enforcement Experience	12    9    9		6	4
<u>Minimum Law Enforcement Training Points</u>		<u>33</u>	<u>27</u>	<u>23</u>
<u>Minimum Law Enforcement Training Points</u>	<u>35    50    33</u>		<u>27</u>	<u>23</u>
Minimum Total Education and Training Points	69    99	33	27	23

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(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the appropriate recognized accrediting body, or the state university of the state in which the institution is located.

*Statutory Authority G.S. 17E-4.*

### **.1106 HOW TO APPLY**

(a) All applicants for an award of the basic, intermediate or advanced certificates shall complete an "Application: Professional Certificate/Service Award", (F-6).

(b) Documentation of education and training shall be provided by copies of transcripts, diplomas, Report of Training Course Completion, agency training records, or other verifying documents attached to the application.

(c) Documentation of the applicant's length of service shall be provided by certified copies of past Oaths of Office, by certified letters of verification of employment from present and/or former employees (law enforcement agencies), or other verifying documents attached to the application.

(d) The applicant shall submit the "Application: Professional Certificate Service Award", (F-6) to his sheriff the agency head who shall attach his recommendation and forward the application to the Commission Division. Certificates will be issued to the sheriff agency head for award to the applicant.

*Statutory Authority G.S. 17E-4.*

## **SECTION .1100 - SHERIFFS' AND JUSTICE OFFICERS' SERVICE AWARD PROGRAM**

### **.1101 PURPOSE**

In order to recognize Sheriffs' and Justice Officers' loyal and competent service to a particular sheriff's department, and also to the State of North Carolina, the Commission establishes the Sheriffs' and Justice Officers' Service Award Program. This program is a method by which dedicated officers may receive local, state-wide and nation-wide recognition for their loyal and competent law enforcement service.

*Statutory Authority G.S. 17E-4.*

### **.1103 INTERMEDIATE SERVICE AWARD**

In addition to the qualifications set forth in Rule .1102 an applicant must have served a minimum of 15 years as a certified justice officer. or Years of service as an elected or appointed sheriff are also applicable.

*Statutory Authority G.S. 17E-4.*

### **.1104 ADVANCED SERVICE AWARD**

In addition to the qualifications set forth in Rule .1102 an applicant must have served a minimum of 20 years as a certified justice officer. or Years of service as an elected or appointed sheriff are also applicable.

*Statutory Authority G.S. 17E-4.*

### **.1105 HOW TO APPLY**

(a) All applicants for either the Intermediate Service Award or the Advanced Service Award shall complete an "Application: Professional Certificate/Service Award," (F-6).

(b) Documentation of the applicant's length of service shall be provided by certified copies of past Oaths of Office, by certified letters of verification of employment from present and/or former employers (law enforcement agencies), or other verifying documents attached to the application.

(c) The applicant shall submit the application to his sheriff the agency head who shall attach his recommendation and forward the application to the Division. The Service Award will be issued to the sheriff agency head for presentation to the applicant.

*Statutory Authority G.S. 17E-4.*

## **SECTION .1200 - PROFESSIONAL CERTIFICATE PROGRAM FOR JAILERS**

### **.1202 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the jailer professional awards, a jailer shall first meet the following preliminary qualifications:

- (1) Be a jailer who holds valid general or grandfather certification. A jailer serving under a probationary certification is not eligible for consideration.
- (2) The jailer shall be familiar with and subscribe to the Law Enforcement Code of Ethics.
- (3) Employees of a North Carolina Sheriff's Department who have previously held general or grandfather jailer certification but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the Professional Certificate Program. Eligibility for this exception

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requires continuous employment with the sheriff's department from the date of promotion or transfer from a certified position to the date of application for a professional certificate.

(4) Only training and or experience gained in an officer's area of expertise will be eligible for application to this program.

(b) Certificates are awarded based upon a formula which combines formal education, training, and actual experience as a jailer. Points are computed in the following manner:

(1) Each semester hour of college credit shall equal one point and each quarter hour shall equal two thirds of a point;

(2) Twenty classroom hours of commission-approved training shall equal one point;

(3) Only experience as a member of a law enforcement agency or equivalent experience shall be acceptable for consideration;

(4) Applicants holding degrees will not be awarded additional points for those degrees and must instead meet the training point requirements of this Section through completion of training in the field of jails or corrections.

*Statutory Authority G.S. 17E-4.*

### **.1204 INTERMEDIATE JAILER PROFESSIONAL CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1202, applicants for the Intermediate Jailer Professional Certificate shall possess or be eligible to possess the Basic Jailer Professional Certificate and shall have acquired the following combination of educational points or degrees, jail or corrections training points and years of jailer experience:

Educational Degrees	AA/AS	AB/BS
Years of Jailer Experience	8    6    4                  4	2
<u>Minimum Training Points</u>	<u>24</u>	<u>23</u>
<u>Minimum Jailer Training Points</u>	<u>6    12    16</u>	<u>24</u>
Minimum Total Education and Training Points	13    23    33	24
		23

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the recognized national accrediting body, or the state university of the state in which the institution is located.

*Statutory Authority G.S. 17E-4.*

### **.1205 ADVANCED JAILER PROFESSIONAL CERTIFICATE**

(a) In addition to the qualifications set forth in Rule .1202, applicants for the Advanced Jailer Professional Certificate shall possess or be eligible to possess the Intermediate Jailer Professional Certificate and shall have acquired the following combination of educational points or degrees, jail or corrections training points and years of ~~law enforcement~~ jailer experience:

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Educational Degrees	A/AS	AB/BS	GRAD. /PRO.
Years of Jailer Experience	12	9	9
<hr/>			
Minimum Training Points		27	26
<hr/>			
Minimum Jailer Training Points	<u>12</u>	<u>16</u>	<u>27</u>
<hr/>			
Minimum Total Education and Training Points	23	33	27
			26
			26
<hr/>			

(b) Educational points claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, the appropriate recognized accrediting body, or the state university of the state in which the institution is located.

*Statutory Authority G.S. 17E-4.*

### SECTION .2100 - JUSTICE OFFICERS' FIREARMS IN-SERVICE TRAINING REQUALIFICATION PROGRAM

#### .2104 IN-SERVICE FIREARMS REQUALIFICATION SPECIFICATIONS

(a) All justice officers who are authorized by the sheriff to carry a handgun shall qualify a minimum of once each year with each handgun that the officer is authorized to carry while on duty on a commission-approved day and night course, as follows:

- (1) Day course of fire shall include at a minimum but not limited to 30 rounds using duty ammunition or duty type ammunition with the same specifications as those found in the duty ammunition authorized by the Department for the specific weapon; firing six rounds from three yards; six rounds from five yards; 12 rounds from seven yards; and six rounds from 15 yards. Firing should be timed firing (i.e., draw and fire two rounds in three seconds). Firing should be from a variety of positions. [Example: standing, kneeling, prone (various cover positions).] Firing must occur under various light conditions to include total darkness; vehicle blue light; vehicle head light; and all available lights.
- (2) Night course of fire shall include at a minimum but not limited to 30 rounds using duty ammunition or duty type am-

munition with the same specifications as those found in the duty ammunition authorized by the Department for the specific weapon; firing six rounds from three yards; six rounds from five yards; 12 rounds from seven yards; and six rounds from 15 yards. Firing should be timed firing (i.e., draw and fire two rounds in three seconds). Firing should be from a variety of positions. [Example: standing, kneeling, prone (various cover positions).] Firing must occur under various light conditions to include total darkness; vehicle blue light; vehicle head light; and all available lights.

(b) All justice officers who are issued, or otherwise authorized by the sheriff to carry a shotgun, rifle, or automatic weapon shall be required to qualify with each weapon respectively a minimum of once each year on a commission-approved course of fire, as follows:

- (1) Shotgun course of fire shall include at a minimum but not limited to five rounds using duty ammunition or duty type ammunition with the same specifications as those found in the duty ammunition authorized by the Department for the specific weapon; firing two rounds from 15 yards; three rounds from 25 yards.

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- (e) Rifle course of fire shall include at a minimum but not limited to firing five rounds from a minimum distance of 50 yards. The ammunition used shall be duty ammunition or duty type ammunition with the same specifications as those found in the duty ammunition authorized by the Department for the specific weapon. All rounds fired for the record shall be fired at no less than 50 yards.
- (f) Automatic course of fire shall include at a minimum but not limited to firing 20 rounds at a maximum of 50 yards. The ammunition used shall be duty ammunition or duty type ammunition with the same specifications as those found in the duty ammunition authorized by the Department for the specific weapon.
- (g) All justice officers who are authorized by the sheriff to carry off duty handguns shall qualify with their off duty handgun a minimum of once each year pursuant to Rule .2104(a) with each handgun the officer carries off duty using ammunition approved by the sheriff.
- (h) All justice officers who are issued or have access to any weapons not stated in this Rule must qualify with these weapons once each year using ammunition approved by the sheriff. The course of fire must be submitted and approved by the Director prior to qualification.
- (i) In cases where reduced-sized targets are used to simulate actual distances, a modified course of fire may be used. The proposed course of fire must be submitted to and approved by the Director prior to qualification.
- (j) To satisfy the minimum training requirements for all in-service firearms requalifications, a justice officer shall attain a minimum qualification score of 70 percent accuracy with each weapon once in three attempts with no more than three attempts on each course of fire per day.
- (k) The "In-Service Firearms Qualification Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments or editions of the adopted matter as authorized by G.S. 150B-14(e), to apply as a minimum guide for conducting the annual in-service firearms qualification. Copies of the publication may be inspected in the Division and may be obtained from the North Carolina Justice Academy.

*Statutory Authority G.S. 17E-4; 17E-7.*

## TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10B .0106, .0401 - .0406; 10H .0102; and adopt rule(s) cited as 15A NCAC 10B .0409.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 9:00 a.m. on September 16, 1991 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from September 2, 1991 to October 1, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27604-1188.*

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10B - HUNTING AND TRAPPING

#### SECTION .0100 - GENERAL REGULATIONS

##### **.0106 WILDLIFE TAKEN FOR DEPREDATIONS OR ACCIDENTALLY**

- (a) Depredation Permit:
  - (1) Endangered or Threatened Species. No permit shall be issued to take any endangered or threatened species of wildlife listed under 15A NCAC 10I by reason of depredations to property. An individual may take an endangered or threatened species in immediate defense of his own life or of the lives of others without a permit. Any endangered or threatened species which may constitute a demonstrable but nonimmediate threat to human safety shall be reported to a federal or state wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0002.
  - (2) Other Wildlife Species. Except as provided in Subparagraph (1) of this Paragraph, the executive director of the

Wildlife Resources Commission may, upon application of a landholder and after such investigation of the circumstances as he may require, issue a permit to such landholder to take any species of wildlife which is or has been damaging or destroying his property provided there is evidence of substantial property damage. No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit has been issued. The permit shall name the species allowed to be taken and, in the discretion of the Executive Director, may contain limitations as to age, sex or any other condition within the species so named. The permit may be used only by the landholder, except that, upon written request of the landholder and when it is conclusively determined on the basis of information submitted by him that he is incapable of accomplishing the necessary control without help, the names of additional persons may be entered upon the permit by the Executive Director as authorized users.

(3) **Taking Without a Permit.** Except as provided in Subparagraph (1) of this Paragraph, a landholder may take wildlife except migratory birds and other federally protected animals upon his own land without a permit during closed season on the species involved only when such wildlife is in the act of damaging or destroying the property of such landholder.

(b) **Term of Permit.** Each depredation permit issued by the Executive Director shall have entered thereon a date or time of expiration after which date or time the same shall become invalid for any purpose, except as evidence of lawful possession of any wildlife that may be retained thereunder.

(c) **Manner of Taking:**

(1) **Taking Without a Permit.** Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms.

(2) **Taking With a Permit.** Wildlife taken under a depredation permit may be taken only by the method or methods specifically authorized by the permit. The only methods that may be authorized in taking game species, other than foxes, is by the

use of firearms and live traps. The permit may authorize the taking of foxes, furbearing animals, and nongame animals or birds by the use of firearms or traps, including steel traps. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and Article 22A of Chapter 113 of the General Statutes of North Carolina. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another.

(3) **Intentional Wounding.** It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(d) **Disposition of Wildlife Killed Taken:**

(1) **Generally.** Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed accidentally, without a permit while committing depredations, or under a depredation permit, shall be buried or otherwise disposed of in a safe and sanitary manner on the property of the landholder in whose name the permit is issued or who kills such wildlife while committing depredations.

(2) **Deer.** Any landholder who kills a deer under a currently valid depredation permit for deer must report such kill within 24 hours and before the deer is butchered for consumption to a wildlife enforcement officer, who upon determining that the kill was lawfully made within the scope of the permit and if so requested by the permittee, shall provide the permittee a written authorization for his own private

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use of the edible portions of the carcass. The nonedible portions of the carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition. When a deer is accidentally killed on a road or highway by reason of collision with a motor vehicle, the law enforcement officer who investigates the accident shall, upon request of the operator of the vehicle, provide such operator a written permit authorizing him to possess and transport the carcass of such deer for his personal and lawful use, including delivery of such carcass to a second person for his private use upon endorsement of such permit to such person by name and when no money or other consideration of value is received for such delivery or endorsement.

- (3) Fox. Any fox killed accidentally by a dog or dogs, motor vehicle, or otherwise shall be disposed of as provided by Subparagraph (1) of this Paragraph. Any fox taken killed under a depredation permit may be disposed of in the same manner, or upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer. Any live fox taken under a depredation permit may be sold to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal either accidentally or for control of depredations to property, whether with or without a permit, may upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400, be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Nongame Animals and Birds. Nongame animals or birds killed accidentally or for control of depredations may be disposed of as provided by Subparagraph (1) of this Paragraph or in any other safe and sanitary manner.

(e) Reporting Requirements. The killing and method of disposition of every game animal and game bird, every furbearing animal, and every nongame animal or nongame bird for which there is no open season, when killed for committing depredations to property, either with or without a permit, shall be reported to the Wildlife Resources Commission within 24 hours following the time of such killing, except that when the carcass or pelt of a fox, killed under a depredation permit, or of a furbearing animal, killed with or without a permit, is lawfully sold to a licensed fur dealer in this State the fur dealer is required to report the source of acquisition and no report is required of the seller.

*Statutory Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2.*

### SECTION .0400 - TAGGING FURS

#### .0401 DEFINITIONS

As used in this Section, the following definitions shall apply:

- (1) "Affix", when used in reference to attachment of a fur tag to the carcass or pelt of an animal, means permanent attachment of the tag through some portion of the carcass or pelt in such a manner as not to be removable without damage to the tag;
- (2) "Carcass" means the dead body of an animal from which the pelt thereof has not been removed;
- (3) "Furbearing animal" means any wild animals listed in Paragraph (e) of Rule .0403 of this Section;
- (4) "Fur dealer" means any person who is licensed under the provisions of Paragraph (f) of Section 113-273 of the General Statutes of North Carolina;
- (5) "Pelt" means the fur, hide, or skin of a furbearing animal which has been removed from the carcass thereof, but does not include a finished product which has been manufactured from such fur, hide or skin or is in the active process of such manufacture;
- (6) "Person" means any individual, firm, corporation or association which is authorized by law to act as an entity.

*Statutory Authority G.S. 113-129; 113-134; 113-273; 113-291.4.*

#### .0402 TAGGING FURS

- (a) Except as provided in Rule .0404 and .0405 of this Section, it is unlawful to transport or to

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buy, sell, barter, trade, or otherwise transfer possession or ownership of the carcass or pelt of any ~~furbearing animal~~ ~~bobcat, otter~~ or fox without having affixed to such carcass or pelt an individual tag provided by the North Carolina Wildlife Resources Commission. Each such tag shall bear a serial number and shall indicate the season during which, and the species of animal for which, its use is authorized.

(b) It is unlawful for any person to import into this State the carcass or pelt of any otter or ~~wildcat~~ ~~bobcat~~ which has not been previously affixed with a tag required and supplied by the state in which the animal was taken.

*Authority G.S. 113-134; 113-273; 113-276.1; 50 C.F.R. 23; 87 Stat. 884.*

### **.0403 APPLICATION FOR TAGS**

(a) ~~Furbearers~~ Fur tags shall be distributed in response to applications made on forms supplied by the Commission. Such application must show the name and address of the applicant and such other information as may be required in the discretion of the Executive Director. ~~to assist in estimating the distribution and annual harvest of furbearing animals in the State and in enforcing the laws and regulations relating to the conservation of furbearers.~~

(b) The Executive Director may, in his discretion, provide for the issuance of ~~furbearer~~ fur tags directly from the Commission headquarters or through authorized agents, or both.

(c) When ~~furbearer~~ fur tags are issued by agents such agents shall be entitled to retain 10 percent of the fee charged not to exceed a maximum of twenty cents (\$0.20) for each tag issued as compensation for their services. The fees to be charged for each ~~furbearer~~ fur tag are as follows:

Species	Fee
Bobcat ( <del>Wildcat</del> )	2.20
Otter	2.20

Fur tag agencies shall be instruments of public service, the function of which is to provide ready access to the required tags by any hunter, trapper or fur dealer having need of them. No fur tag agent having appropriate fur tags on hand shall refuse to sell them to any applicant during such agent's regular business hours. No such agent shall impose any additional condition or requirement for his services as such or charge, either directly or indirectly, any price for a fur tag in excess of that specified in this Paragraph.

(d) When an open season with harvest limitation for taking foxes with traps or weapons is

established in accordance with G.S. 113-291.4, application for permits to participate must be made to the Commission on forms available from ~~license agents~~ ~~the Commission~~. If the number of applicants for an area of open fox season exceeds the maximum number authorized for the area, the successful applicants will be picked by random computer selection. If there are two or more areas of open fox season, a trapper or hunter will be authorized to purchase fox tags for use in only ~~one such area~~ ~~those areas~~ which may be selected by him on his application in order of alternate preferences, and such fox tags shall not be valid for use on foxes taken in any other area. A fixed number or quota of fox tags will be reserved for purchase by each successful applicant, ~~at a cost of two dollars and twenty five cents (\$2.25) per fox tag~~, until a specified date after which any quotas not purchased will be made available as additional quotas to other permit holders for the same area on the basis of one additional quota each, first come first served. The carcasses or pelts of foxes lawfully taken ~~and lawfully tagged in an area of open fox season, in accordance with 17A NCAC 10B .0212 and those taken under a depredation permit, when properly tagged, and those taken under a local law that permits foxes to be sold~~ may be sold; provided that this Paragraph shall not authorize the sale of carcasses or pelts of foxes taken under a depredation permit in any county in which the sale of foxes or parts thereof is prohibited by local law.

*Statutory Authority G.S. 113-134; 113-273; 113-276.1; 113-291.4.*

### **.0404 TRAPPERS AND HUNTERS**

(a) Every fox taken in an area of open season as provided by ~~Paragraph (d) of Rule .0403 of this Section~~ G.S. 113-291.4 shall be tagged at the scene of taking. Every person taking any ~~furbearing animals~~ ~~bobcat or otter~~ in this State, or any foxes under a depredation permit, ~~or local law that permits taking~~ shall obtain the necessary tags and affix each carcass or pelt with a proper tag before selling or transferring the same to any other person or transporting the same for any purpose, except that: ~~a resident may transport the same from the place of taking to his residence and from his residence to a fur tag agent, and any person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.~~

(1) A person may transport the same from the place of taking to his residence and from

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his residence to a fur tag agent or taxidermist's place of business.

(2) A person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.

(3) The carcass, pelt or mounted specimen is exempt from tagging requirements while in the taxidermist's place of business or after the mount is completed.

(4) A licensed trapper may take live foxes during any legal trapping season, except foxes taken under G.S. 113-291.4, without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

(5) A person may take live foxes pursuant to a valid depredation permit issued under G.S. 113-274(c)(1a), without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

No carcass or pelt of any ~~furbearing animal~~ bobcat, otter or fox taken within this State may be removed from the state without a proper fur tag having been affixed thereto, except a licensed taxidermist may ship the same to a tannery for processing. Any carcass or pelt remaining in a person's possession, except those in a licensed taxidermist's place of business or his taxidermy preservation facility, after the end of the season shall be properly tagged by him within 10 days following the close of such season.

(b) In any case where the taking of foxes with weapons or traps and the sale thereof is authorized by local legislation, except live foxes taken by licensed trappers who live-trap foxes for sale during any open season or persons who take live foxes pursuant to a depredation permit in accordance with Rule .0409 of this Section, the hunter or trapper taking any such fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with a proper tag before selling or transferring the same to any other person, or transporting the same for any purpose than as authorized by Paragraph (a) of this Rule.

*Statutory Authority G.S. 113-134; 113-276.1; 113-291.4; S.L. 1985, chs. 108, 179, 180, 664 and 722.*

### .0405 FUR DEALERS

(a) It is unlawful for any fur dealer licensed or otherwise authorized to deal in furs in this State, or any person or agent acting in his behalf, to buy or accept delivery from any person the carcass or pelt of any ~~furbearing animal~~ bobcat,

otter or fox taken within the State which has not been previously affixed with a tag provided by the North Carolina Wildlife Resources Commission as required by this Section.

(b) It is unlawful for any fur dealer to import into this State the carcass or pelt of any otter or ~~wildcat~~ bobcat which has not been previously affixed with a tag required and supplied by the state in which the animal was taken. It is unlawful for any fur dealer, or agent of a fur dealer, to import into this State or to accept delivery of a carcass or pelt of any fox from a source located in any other state which does not by law or regulation require tagging of such carcasses or pelts, or a carcass or pelt of any fox which has not been tagged in accordance with the tagging requirements of the state from which it is imported, unless documentation of the date and hour of the arrival of such carcass or pelt at such fur dealer's place of business is available for inspection and such carcass or pelt is affixed with a fur tag provided by the North Carolina Wildlife Resources Commission within seven days after the date and hour of such arrival. No such carcass or pelt shall be resold or removed from such fur dealer's place of business without having been tagged as required by this Section.

(c) Any fur dealer or agent of a fur dealer authorized to do business in this State may import and accept delivery in this State of the carcass or pelt of any ~~furbearing animal~~ bobcat, otter or fox which has been affixed with a tag when and as required by the laws or regulations of the state from which such carcass or pelt is imported.

(d) Except as provided by Paragraph (b) of this Rule, it is unlawful for any fur dealer licensed to do business in this State to have in possession the carcass or pelt of any ~~furbearing animal~~ bobcat, otter or fox which has not been affixed with a fur tag provided by the North Carolina Wildlife Resources Commission or a tag required by the laws or regulations of the state from which the same was imported.

(e) Each fur dealer licensed to do business in this State shall maintain records of all acquisitions of carcasses and pelts of beaver, ~~bobcat~~, mink, muskrat, nutria, opossum, ~~otter~~, raccoon, skunk, and weasel, as well as of the ~~furbearing animals~~ and foxes, ~~required to be tagged under this Section~~. Such records shall consist of receipts, copies of receipts, or other written evidence of the transactions showing the sources and numbers of acquisition. Each fur dealer shall provide the Wildlife Resources Commission with monthly reports, made on forms supplied by the Commission, summarizing all acquisitions of carcasses and pelts of such animals, except those which have been acquired from and reported by

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other fur dealers licensed by the State. The reports shall include all such acquisitions made during each month beginning with October and ending with March of the following year; shall distinguish between acquisitions made within the State and those made from without the State; and, if acquired from within the State, shall indicate the counties in which the animals were taken. The report covering each month shall be mailed or delivered to the Commission on or before the 15th day of the next succeeding month. The records required by this Paragraph and the inventory of carcasses and pelts on hand shall be made available for inspection by any officer or representative of the Wildlife Resources Commission upon request at all reasonable times. In the case of nonresident fur dealers licensed to do business in this State, the records and reports required by this Paragraph shall apply only to carcasses or pelts of animals acquired from within this State, and no reports are required from nonresident fur dealers who acquire pelts only from other fur dealers licensed in the State.

(f) The tagging requirements of Paragraph (a) of Rule .0402 of this Section and of Paragraphs (b) and (d) of this Rule shall not apply to the pelts or furs of foxes that are imported into this State by a fur dealer operating under a currently valid North Carolina Fur-Dealer Station License at a fixed place of business or to such pelts or furs delivered to the place of business of such fur dealer by a seller from another state provided that the following conditions are satisfied:

- (1) the nonresident seller is a licensed fur dealer in the state from which the pelts or furs originated;
- (2) the resident dealer has available for inspection a dated, signed bill of sale indicating the precise number of green pelts and dry pelts of fox purchased in each lot of imported fur; the accurate name, address, and fur dealer license number of the seller; and the date of arrival of the lot of pelts at the licensed place of business;
- (3) imported green pelts of fox are kept separate from the green pelts of native fox during processing and are readily identifiable as to imported lot number and bill of sale;
- (4) imported dry pelts of fox are not batched with native dry pelts of fox unless such pelts are marked in a manner that readily identifies them as to imported lot number and bill of sale;
- (5) such imported, untagged pelts of fox are imported, processed, and stored only for

sale and export to buyers in other states; and

- (6) such imported, untagged pelts of fox are not held on the premises for longer than twenty-one (21) days from the date of arrival without having been tagged as required by Rule .0402(a) of this Section.

*Authority G.S. 113-129; 113-134; 113-273; 113-291.3; 113-291.4; 50 C.F.R. 23; 87 Stat. 884.*

### .0406 MISUSE OF TAGS

(a) It is unlawful for any person to use or affix a ~~fur bearer~~ fur tag which is valid for one season to the carcass or pelt of any ~~fur bearing animal~~ bobcat, otter or fox taken or acquired during any subsequent season.

(b) It is unlawful for any person to affix any ~~fur bearer~~ fur tag to the carcass or pelt of any species of animal other than that for which its use is authorized and it is unlawful to buy or sell any ~~fur bearer~~ bobcat, otter or fox carcass or pelt which has an unauthorized tag so affixed.

(c) It is unlawful for any person to sell or transfer any unused fox tag to any other person. It is unlawful for any person to sell any unused ~~fur bearer~~ fur tag for a price greater than the fee listed for such tag in Paragraph (c) of Rule .0403 of this Section.

(d) It is unlawful for any person to reuse a ~~fur bearer~~ fur tag or to remove the same from the pelt to which affixed prior to delivery to a manufacturer or fur processor.

(e) It is unlawful to counterfeit or modify any ~~fur bearer~~ fur tag.

*Statutory Authority G.S. 113-134; 113-135; 113-135.1; 113-273; 113-276.1; 113-291.4.*

### .0409 SALE OF LIVE FOXES TO CONTROLLED FOX HUNTING PRESERVES

In accordance with G.S. 113-273(g) licensed trappers may live-trap foxes during any open season, except those listed in accordance with G.S. 113-291.4, for trapping foxes and sell them to licensed controlled fox hunting preserves in accordance with the following conditions:

- (1) Licensed trappers are exempt from caging, captivity permit or captivity license requirements set forth in 15A NCAC 10I1 .0300 for any live-trapped foxes trapped for the purpose of sale to controlled hunting preserves. This exemption shall apply during the trapping season and for a period of 10 days after the trapping season.
- (2) Licensed trappers are exempt from tagging requirements set forth in this Section so long

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as the foxes are kept alive as set forth in Subparagraph (1) of this Rule.

(3) Live foxes taken under a depredation permit may be sold to controlled hunting preserves.

*Statutory Authority G.S. 113-134; 113-273; 113-291.4.*

### SUBCHAPTER 10II - REGULATED ACTIVITIES

#### SECTION .0100 - CONTROLLED HUNTING PRESERVES FOR DOMESTICALLY RAISED GAME BIRDS

##### .0102 ESTABLISHMENT AND OPERATION

(a) Size of Preserve. Controlled hunting preserves licensed under these regulations shall consist of not less than 100 acres nor more than 1,000 acres and shall be in one block of land.

(b) Boundary of Preserve. The boundary of each controlled hunting preserve shall be posted with printed signs supplied by the preserve owner with wording and sign size according to a sample provided by the Wildlife Resources Commission. Signs shall be of two types:

- (1) those facing outward from the boundary to prevent trespass; and
- (2) those facing inward from the boundary to confine preserve hunters inside the preserve.

Each set of signs shall be spaced at intervals of not more than 150 feet apart. ~~All boundary signs must be posted not later than September 10 to provide time for inspection and issuance of license to operate by October 1. Applicants not desiring the license by October 1 may delay posting to not later than 20 days prior to date of license.~~

(c) Stocking Preserve with Game. An applicant for a controlled hunting preserve license shall present satisfactory evidence of his ability to raise or purchase for release on the preserve during the year at least the minimum number herein designated of each species he plans to advertise as being available on his preserve for hunting in accordance with the following formula:

- (1) ring-necked pheasants (and other nonnative game birds except Mallard ducks)--100 birds of each species for ~~each 100 acres, first 300 acres, or fraction thereof, and 100 birds for each additional 200 acres, or fraction thereof~~, included in the hunting preserve;
- (2) bobwhite quail ~~2,000~~ 1,000 quail for the first ~~200~~ 300 acres, or fraction thereof, and 500 quail for each additional 200 acres, or fraction thereof, included in the hunting preserve;

(3) Mallard ducks (one generation removed from the wild)--100 minimum for each preserve.

*Statutory Authority G.S. 113-134; 113-273.*

### TITLE 2I - OCCUPATIONAL LICENSING BOARDS

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. State Board of Cosmetic Art Examiners intends to amend rule(s) cited as 2I NCAC 14G .0003.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 1:00 P.M. on September 16, 1991 at the N.C. State Board of Cosmetic Art Examiners - Office, Grove Towers, Fifth Floor, 1110 Navaho Dr., Raleigh, N. C. 27609.*

*Comment Procedures: The record shall be open for 30 days before the hearing to receive written comments. Written comments should be received by the N. C. State Board of Cosmetic Art Examiners by September 13, 1991, to be considered as part of the hearing record. Comments should be addressed to: Vicky R. Goudie, Executive Secretary, N. C. State Board of Cosmetic Art Examiners, Grove Towers, 5th Floor, 1110 Navaho Dr., Raleigh, N. C. 27609. Requests to speak must be in writing and received by Mrs. Goudie five days (September 11, 1991) prior to the hearing. Speaking time ten minutes.*

### CHAPTER 14 - BOARD OF COSMETIC ART EXAMINERS

#### SUBCHAPTER 14G - REQUIREMENTS FOR THE ESTABLISHMENT OF COSMETIC ART SCHOOLS

##### .0003 SPACE REQUIREMENTS

(a) The Cosmetic Art Board will issue letters of approval only to cosmetology schools that have at least 3,000 square feet of inside floor space located within the same building.

(b) Cosmetology schools approved with 3,000 square feet of inside floor space may enroll no more than 60 students at one time, and for each student enrolled in addition to 60 students, 50 square feet of inside floor space must be provided.

(c) In addition each cosmetology school must have 30 hairdressing stations, arranged to ac-

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accommodate not less than 30 students and arranged so that the course of study and training in cosmetology, as prescribed by the Board, may be given. All stations must be numbered numerically.

(d) Cosmetology schools must also have a beginner department containing sufficient space to comfortably accommodate at least ten students and having at least 40 inches between mannequins.

(e) The Board will issue letter of approval only to manicurist schools that have at least 1,000 square feet of inside floor space located within the same building.

(f) Manicurist schools with 1,000 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 50 square feet of inside floor space must be provided.

(g) In addition, manicurist schools must have ten manicurist tables and chairs a minimum of two feet apart, side to side, arranged to comfortably accommodate ten students.

*Statutory Authority G.S. 88-23; 88-30.*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board for Licensing of Geologists intends to amend rule(s) cited as 21 NCAC 21 .0106 - .0107; and adopt rule(s) cited as 21 NCAC 21 .1001 - .1002.*

*The proposed effective date of this action is December 1, 1991.*

### **.0107 FEES**

(a) Completed application forms must be accompanied by the prescribed fee. Application fees will not be refunded regardless of Board approval or disapproval of the application. Prescribed fees shall be:

(1) application forms for licensing as a geologist, including a copy of the Geologists Licensing Act and Rules:	\$ 5.00
(2) application for license:	\$50.00
(3) examination:	\$50.00
(4) application for license by comity:	\$50.00
(5) biennial renewal of license:	\$70.00
(6) biennial renewal of license of N. C. resident geologists practicing less than 15 days per year:	\$30.00
(7) replacement of license:	\$10.00
(8) application for reinstatement of license:	\$50.00
(9) licensed geologist stamp and seal: cost plus	\$ 5.00
(10) <u>application for corporate registration:</u>	\$50.00
(11) <u>annual renewal of certificate of registration for corporations:</u>	\$25.00
(12) <u>registered geological corporation stamp and seal: cost plus</u>	\$ 5.00

(b) All licenses will expire biennially on July 1. Biennial renewal fees received after July 1 and before September 1 of the year due shall be subject to the assessment of a late payment penalty of ten dollars (\$10.00). All certificates of registration for corporations will expire annually on July 1. Annual renewal

*T*he public hearing will be conducted at 11:00 a.m. on September 20, 1991 at the Conference Room, Winston-Salem Regional Office, Department of Environment, Health, and Natural Resources, 8025 North Point Boulevard, Winston-Salem, N. C. 27106.

*C*omment Procedures: Any interested person may present either verbal or written comments at the hearing. Additionally, the record will be open for receipt of written comments until the hearing. Such written comments must be delivered or mailed to Mr. Neil J. Gilbert, N.C. Board for Licensing of Geologists, Post Office Box 27402, Raleigh, North Carolina 27611.

## CHAPTER 21 - BOARD OF GEOLOGISTS

### **SECTION .0100 - STATUTORY AND ADMINISTRATIVE PROVISIONS**

#### **.0106 FORMS**

Forms used by the Board, and available from the Board office upon request, include the following:

- (1) Application for Licensing as a Geologist,
- (2) Application for License by Comity,
- (3) Application for Renewal of License, and
- (4) Application for Reinstatement of License,
- (5) Application for Corporate Registration, and
- (6) Certificate of Registration.

*Statutory Authority G.S. 55B-2(6); 55B-10; 89E-8; 89E-10; 89E-11; 89E-12.*

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fees for certificates of registration for corporations received after August 1 and before December 31 shall be subject to a late payment penalty of ten dollars (\$10.00).

(e) Licenses that have not been renewed by September 1st may only be renewed by filing a reinstatement application and submitting a reinstatement fee.

(d) Licenses that have been suspended under G.S. 89E-21 may be reinstated by filing a reinstatement application and paying the reinstatement fee.

*Statutory Authority G.S. 55B-2(6); 55B-10; 55B-11; 89E-5; 89E-8; 89E-10; 89E-12; 89E-13; 89E-21.*

### SECTION .1000 - PROFESSIONAL CORPORATIONS

#### .1001 CORPORATE PRACTICE OF GEOLOGY

(a) Application Forms. Application for a corporate Certificate of Registration for the practice of geology within the State of North Carolina shall be made upon forms provided by the Board. Completed applications must be accompanied by the application for corporate registration fee. Certificates of Registration for corporations may be issued only under the provisions of the Professional Corporation Act, G.S. 55B, except as provided in Paragraph (b) of this Rule.

(b) Geological Corporations Under G.S. 55, the Business Corporation Act. Applications for a Certificate of Registration as exempt from the Professional Corporation Act under the provisions of G.S. 55B-15 shall be made upon forms provided by the Board. Completed applications must be accompanied by the application for corporate registration fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15 the following conditions must exist:

- (1) The corporation must have been incorporated prior to September 1, 1991 as a business corporation;
- (2) Before and after September 1, 1991, the corporation must have been a bona fide firm engaged in the practice of geology and such services as may be ancillary thereto within the State of North Carolina; and
- (3) The corporation must have applied to be an exempt corporation before January 1, 1992.

(c) Renewal of Certificate. The renewal of Certificates of Registration for corporations shall follow the requirements as set out in Rule .0107 of this Chapter.

(d) Seal. Each registered corporation shall obtain from the Board a seal approved by the Board. Such seal shall contain the name of the corporation, its North Carolina registration number and the words "registered geological corporation."

(e) Approval of Name. In addition to the requirements and limitations of Chapter 55 and

55B of the General Statutes, the corporate name used by a geological corporation shall be approved by the Board before being used. Provided, however, that this Rule shall not prohibit the continued use of any corporate name duly adopted in conformity with the General Statutes of North Carolina and board rules in effect at the date of such adoption.

*Statutory Authority G.S. 55B-5; 55B-10; 55B-11; 55B-15; 89E-5; 89E-12.*

#### .1002 FOREIGN CORPORATIONS

(a) Incorporation in Other States. Corporations of other states may be granted Certificates of Registration for the practice of geology in this state on the receipt by the Board of a completed application and the payment of the corporate registration application fee. In addition to the other requirements as set out in G.S. 89E-12, foreign corporations must, prior to registration, receive from the Secretary of State of North Carolina a Certificate of Authority to do business within the state.

(b) Designated Individuals. Foreign corporations shall be permitted to practice geology within the State of North Carolina provided that the corporation must designate at least one geologist who is licensed by the State of North Carolina to be in responsible charge for the corporate practice of geology within the State of North Carolina.

*Statutory Authority G.S. 55B-6; 55B-14; 89E-12.*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Hearing Aid Dealers and Fitters Board intends to repeal rules cited as 21 NCAC 22C .0101, .0903; amend 21 NCAC 22I .0006; 22F .0001, .0003, .0008, .0013, .0014; adopt 21 NCAC 22J .0015 and 22L .0001 - .0015.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on September 20, 1991 at the Clemmons Public Library, Clemmons, North Carolina.*

**Comment Procedures:** Written comments must be received by the Board no later than 10:00 a.m. on September 20, 1991; requests to make oral comments at the hearing must be received by 10:00 a.m. on September 20, 1991. The Board's address is c/o Ms. Judy Bedsaul, Executive Secretary, P.O. Box 767, Clemmons, North Carolina 27012. Oral comments may be limited to 3 minutes.

## **CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD**

### **SUBCHAPTER 22C - CONTESTED CASES**

#### **SECTION .0100 - GENERAL RULES**

##### **.0101 ADMINISTRATIVE HEARING PROCEDURES (REPEALED)**

*Statutory Authority G.S. 93D-3(c); 150B-14; 150B-38(h).*

#### **SECTION .0900 - HEARING OFFICERS**

##### **.0903 ALLEGED BIAS OF BOARD MEMBER (REPEALED)**

*Statutory Authority G.S. 93D-3(c); 150B-38(h).*

### **SUBCHAPTER 22F - GENERAL EXAMINATION AND LICENSE PROVISIONS**

#### **.0001 TIME OF EXAMINATIONS**

The Board shall hold the qualifying examination as set forth in G.S. 93D-8 on the first Saturday in May of each year and shall may hold an additional examination on the first Saturday in November of each year provided that at least four individuals have duly made application for issuance of a license and that the filing for admission to the examination was timely, if a sufficient number of timely-filed applications are received to justify, in the Board's discretion, holding such additional examination.

*Statutory Authority G.S. 93D-3(c); 93D-8.*

#### **.0003 SUBMISSION OF APPLICATIONS AND FEES**

(a) A duly made application for issuance or renewal of an apprentice registration certificate shall be submitted to the executive secretary of the Board no later than ten working days after

the date that any of the following conditions exist:

- (1) Whenever a registered apprentice is separated from his sponsor for any reason and such individual wishes to obtain a new certificate to replace the invalidated certificate;
- (2) Whenever a registered apprentice is notified by the executive secretary of the Board that he failed to pass the qualifying examination and such individual wishes to renew his certificate;
- (3) Whenever the executive secretary of the Board notifies the individual that his apprentice registration certificate has been invalidated for any reason and such individual wishes to obtain a new certificate to replace the invalidated certificate; and
- (4) Whenever an Audiologist duly makes application for issuance of a license by examination and that individual elects to become a registered apprentice in order to engage in the fitting and selling of hearing aids, under the supervision of a licensee approved by the Board, while waiting to take the next scheduled qualifying examination.

(b) A registered apprentice who holds a masters degree in Audiology and is not an Audiologist, as defined in 21 NCAC 22A .0301 (2), may first apply for issuance of a license by examination any time after that individual has completed 250 clock hours of supervision by a licensee approved by the Board. However, no later than ten working days after any registered apprentice who is not an Audiologist has held a valid apprentice registration certificate for 365 calendar days, the apprentice shall submit a duly made application for issuance of a license by examination and shall take the next scheduled qualifying examination. All registered apprentices shall reapply for a license by examination, within the time prescribed in Paragraph (c) of this Rule, each time they take and fail to pass the qualifying examination.

(c) Whenever a registered applicant is required to take the qualifying examination as a condition for issuance of a license or reissuance of a suspended license, the duly made application shall be considered by the Board to be timely if it is in the hands of the executive secretary no later than 30 consecutive days prior to the examination date. The Board shall have the right to refuse any person admission to the qualifying examination if such individual has not duly made application for issuance or reissuance of a license, has not attended an examination preparation workshop as set forth in 21 NCAC 22F .0014 (b), or has not made a timely filing.

(d) All fees shall be paid to the executive secretary ~~by a bank check, certified check, or money order~~ and shall be made payable to N.C. Hearing Aid Dealers and Fitters Board. When a personal check is received in payment of any fee, the Board may wait until final credit on such check is received before providing the license or other document requested. A processing fee of fifteen dollars (\$15.00) (or any greater amount allowed by law) will be charged for any check on which payment is refused by the payor bank because of insufficient funds or because the drawer did not have an account at that bank at the time the check was presented to the Board.

*Statutory Authority G.S. 93D-3(c); 93D-5; 93D-9.*

**.0008 REVIEW OF EXAMINATION**

As set forth in G.S. 93B-8 (c), each registered applicant who takes and does not pass the qualifying examination shall be granted an opportunity to review his examination in the presence of a representative of the Board, upon written request from the applicant. Such written request shall be in the hands of the executive secretary of the Board no later than 30 consecutive days after the written notification of the examination results was issued by the executive secretary. Such review shall be held at the Board's offices unless the executive secretary determines that the review should be held at another location.

*Statutory Authority G.S. 93B-8; 93D-3(c).*

**.0013 APPRENTICESHIP REQUIREMENTS**

(a) Pursuant to G.S. 93D-9, each individual who duly makes application for issuance or renewal of an apprentice registration certificate shall submit a plan, using the form provided by the Board, for completing the supervision requirement for the apprenticeship. The registered apprentice shall submit a report of the apprenticeship experience, using the form provided by the Board, no later than ten working days after the date that any of the following conditions exist:

- (1) The apprentice and his sponsor are separated for any reason and thus causing the apprentice registration certificate to become invalidated;
- (2) The apprentice, who is not an Audiologist, has held a valid apprentice registration certificate for 365 calendar days;
- (3) The apprentice, who holds a masters degree in Audiology and is not an Audiologist, has completed 250 clock

hours of supervision, prior to first taking the qualifying examination;

- (4) The apprentice has been notified by the executive secretary of the Board that he failed the qualifying examination and the individual is reapplying for issuance of a license by examination;
- (5) The apprentice, who has renewed his apprentice registration certificate after failing to pass the qualifying examination, has been notified by the executive secretary of the Board that he has passed the subsequent qualifying examination; or
- (6) The Board has issued a written request to the registered apprentice for submission of a report, in order to determine fulfillment of the apprentice experience requirements.

(b) The initial apprentice registration certificate issued to any person who is not an Audiologist, and any subsequently issued replacements for an invalidated certificate, shall expire after the apprentice has held a valid apprentice registration certificate for a total of 365 calendar days. Upon receipt of a duly made application for issuance of a license by examination, the Board shall, when necessary, extend the certificate, at no charge to the registered apprentice, until 30 consecutive days after the results of the next scheduled qualifying examination are in the hands of the executive secretary of the Board. The initial apprentice registration certificate, and any replacements which are issued to an Audiologist prior to his first taking the qualifying examination, shall expire 30 consecutive days after the results of the next scheduled qualifying examination are in the hands of the executive secretary of the Board.

(c) Whenever any registered apprentice takes and fails to pass the qualifying examination, the individual shall duly make application for issuance of a renewal certificate which may be issued for good cause shown to the satisfaction of the Board. Such certificate shall expire 30 consecutive days after the results of the next scheduled qualifying examination are in the hands of the executive secretary of the Board.

(d) All registered apprentices shall comply with the rules and regulations, including the code of ethics, promulgated by the Board and with the provisions set forth in Chapter 93D of the General Statutes of North Carolina. Failure to comply shall be sufficient grounds to invalidate an apprentice registration certificate, to deny future applications for issuance of an apprentice registration certificate, to deny renewal of an apprentice registration certificate, or to deny, sus-

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pend or revoke a license after proper notice and hearing.

*Statutory Authority G.S. 93D-3(c); 93D-9.*

### **.0014 TRAINING AND SUPERVISION**

(a) Each registered apprentice, excluding those Audiologists who elect to be a registered apprentice while waiting to take the qualifying examination for the first time, shall submit to direct supervision by a licensee who is approved by the Board and who shall be responsible for the apprentice's training and supervision in the following areas:

- (1) Anatomy, physiology, and pathology of the auditory mechanism;
- (2) Measurement techniques and test interpretation for assessment of hearing impairment and hearing handicap;
- (3) Hearing aid technology including instrument circuitry and acoustic performance data;
- (4) Design, selection, and modification of earmold/shell coupling systems;
- (5) Hearing aid selection procedures, and fitting and adjustment techniques;
- (6) Post-delivery care including hearing aid orientation and counseling techniques, and hearing aid servicing;
- (7) Ethical conduct and regulatory issues concerning the fitting and selling of hearing aids; and
- (8) Other related topics that the sponsor or apprentice deem necessary.

(b) Before taking the qualifying examination for the first time, each registered apprentice who is not an Audiologist shall attend an examination preparation workshop, approved or sponsored by the Board, which consists of one 3-day session. The workshop dates will be scheduled in conjunction with the dates for the qualifying examinations. Information concerning the scheduled times, dates, and topics for each workshop

may be obtained from the executive secretary of the Board. Written notice of intent to attend any or all of the daily sessions must be in the hands of the executive secretary of the Board at least three ~~thirty~~ consecutive days prior to the starting date of each workshop.

(c) The Board shall have the right to refuse any person admission to the workshop sessions if the individual is not a registered apprentice or a registered applicant, or if timely notification of intent to attend was not made in accordance with Paragraph (b) of this Rule.

*Statutory Authority G.S. 93D-3(c); 93D-5; 93D-9.*

### **SUBCHAPTER 22I - PROFESSIONAL AFFAIRS**

#### **.0006 DISCLOSURE**

(a) In addition to the information required by G.S. 93D-7, all licensees and registered apprentices shall, by the time of delivery of the hearing aid(s), complete one or more written statements of sale containing the following:

- (1) The business name and street address, within the State of North Carolina, of at least one place of business of the seller;
- (2) The name of the person delivering the hearing aid(s) and the name of the person who sold the hearing aid(s);
- (3) The name of the purchasing party, if different from the name of the consumer;
- (4) The date of sale, if different from the date of delivery;
- (5) The model of the hearing aid(s); and
- (6) The total cost to the purchaser for all products and services; and
- (7) The serial number of the hearing aid(s).

(b) A copy of all statements of sales shall be retained for a period of three calendar years from the date of delivery of the hearing aid(s).

*Statutory Authority G.S. 93D-3(c).*

### **SUBCHAPTER 22J - CODE OF ETHICS**

#### **.0015 FAILURE TO INFORM PURCHASER OF RIGHT TO CANCEL SALE**

(a) In connection with any sale, it is unethical for a person licensed by or registered with the Board to:

- (1) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution which is in the same language, e.g. Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved on the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

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You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

(2) Fail to furnish each buyer, at the time the buyer signs the sales contract, a completed form in duplicate, captioned either "NOTICE OF RIGHT TO CANCEL" or "NOTICE OF CANCELLATION," which shall contain in 10 point bold face type the following information and statement in the same language, e.g. Spanish, as that used in the contract:

**"NOTICE OF CANCELLATION"**

.....  
(date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any payments made by you under the contract or sale or any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make reasonably available to the seller at your residence or other location agreeable to you and the seller, in substantially as good condition as when received any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not take possession of them within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction transmit by mail, telegram, facsimile, or deliver a signed and dated copy of this cancellation notice or any other written notice to:

.....  
(name of seller)

at .....  
(seller's address)

not later than midnight of .....  
(date)

I hereby cancel this transaction. ....  
(buyer's signature) (date)

(3) Fail, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

(4) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

(5) Misrepresent in any manner the buyer's right to cancel.

(b) Regardless of the seller's compliance or noncompliance with the requirements of the preceding subsection, it is unethical for any seller to willfully fail or refuse to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to:

(1) Refund all payments made under the contract or sale;

(2) Return any goods in substantially as good condition as when received by the seller;

(3) Cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction. If the seller failed to provide a form Notice of Cancellation to the buyer, then oral notice of cancellation by the buyer is sufficient for the purposes of this Subchapter.

*Authority G.S. 14-401.13; 93D-3; 93D-13; 16 C.F.R. § 429.1.*

**SUBCHAPTER 22L - ADMINISTRATIVE HEARINGS: CONTESTED CASES**

**.0001 COMMITTEE ON INVESTIGATIONS**

(a) Upon receipt of a written charge alleging misconduct against a licensee or registrant of the Board, the Executive Secretary shall inform the accused party of the nature of the charges as filed with the Board.

(b) The accused party shall respond to the charges by filing a written answer with the Board within 20 days of the receipt of the notification of charges.

(c) The complaining party shall be provided with a copy of the accused party's answer and within 20 days from receipt thereof shall file a reply to the accused party's answer.

(d) The charges as filed with the Board, the answer, and the reply may be referred to the Committee on Investigations (hereinafter referred to as "Committee"). The Committee shall consist of two members of the Board, one of whom shall serve as chairman.

(e) The Committee shall investigate the complaint referred to it by the Board and as part of the investigation may:

- (1) Assign the complaint to the Board's investigator who shall submit a written report to the Committee.
- (2) Invite the complaining party and the accused party before the Committee to present their oral statements, but neither party shall be compelled to attend.
- (3) Conduct any other type of investigation as is deemed appropriate by the Committee.

(f) Upon the completion of the investigation, the Committee shall determine whether or not there is probable cause to believe that the accused party has violated any standard of conduct which would justify a disciplinary hearing based upon the grounds as specified in Article 13 of Chapter 93D of the North Carolina General Statutes or this Chapter. In the event the Committee is unable to reach a unanimous decision on whether probable cause exists, the President of the Board shall appoint one additional member to the Committee for the purpose of resolving the probable cause decision. This additional member is to serve on the Committee only for the

duration of the particular investigation for which such member is appointed.

(g) If probable cause is found, the Committee or the Board's attorney shall serve a Notice of Hearing on the licensee or registrant as required by law as stated in Article 3A of Chapter 150B of the North Carolina General Statutes.

(h) If probable cause is found, but it is determined that a disciplinary hearing is not warranted, the Committee may issue a reprimand to the accused party. A statement of such reprimand shall be mailed to the accused party. Within 20 days after receipt of the reprimand, the accused party may refuse the reprimand and request that Notice of Hearing be issued pursuant to Chapter 150B of the North Carolina General Statutes or this Chapter. Such refusal and request shall be addressed to the Committee and filed with the Executive Secretary for the Board. The legal counsel for the Board shall thereafter prepare, file, and serve a Notice of Hearing. If the letter of reprimand is accepted, a record of the reprimand shall be maintained in the office of the Board.

(i) If no probable cause is found, the Committee shall dismiss the charges and prepare a statement of the reasons therefor which shall be mailed to the accused party and the complaining party.

(j) If no probable cause is found, but it is determined by the Committee that the conduct of the accused party is not in accord with accepted professional practice or may be the subject of discipline if continued or repeated, the Committee may issue a letter of caution to the accused party stating that the conduct, while not the basis for a disciplinary hearing, is not professionally acceptable or may be the basis for a disciplinary hearing if repeated. A record of such letter of caution shall be maintained in the office of the Board.

(k) Any committee member, including any board member who was appointed to the Committee pursuant to Paragraph (f) of this Rule, is deemed disqualified to participate in any disciplinary proceeding brought involving any person for whom the committee member participated in the investigatory process.

*Statutory Authority G.S. 93D-3; 150B-38.*

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### **.0002 RIGHT TO HEARING**

When the Board acts or proposes to act, other than in rule-making or declaratory ruling proceedings, in a manner which will affect the rights, duties, or privileges of a specific, identifiable person, such person has the right to an administrative hearing. When the Board proposes to act in such manner, it shall give all such affected persons notice of their right to a hearing by mailing by certified mail to them at their last known address a notice of the proposed action and a notice of a right to a hearing.

*Statutory Authority* G.S. 93D-3; 150B-11; 150B-38.

### **.0003 REQUEST FOR HEARING**

(a) When an individual believes that individual's rights, duties, or privileges have been affected by the Board's administrative action, but has not received notice of a right to an administrative hearing, that individual may file a formal request for a hearing.

(b) Before an individual may file a request, that individual is encouraged to exhaust all reasonable efforts to resolve the issue informally with the Board.

(c) Subsequent to such informal action, if still dissatisfied, the individual must submit a request to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING. The request must contain the following information:

- (1) Name and address of the petitioner;
- (2) A concise statement of the action taken by the Board which is challenged;
- (3) A concise statement of the way in which the petitioner has been aggrieved; and
- (4) A clear and specific statement of request for a hearing.

(d) The request will be acknowledged promptly and, if deemed appropriate by the Board in accordance with Rule .0004 of this Subchapter, a hearing will be scheduled.

*Statutory Authority* G.S. 93D-3; 150B-11; 150B-38.

### **.0004 GRANTING OR DENYING HEARING REQUESTS**

(a) The Board shall grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6).

(b) The denial of request for a hearing shall be issued no later than 60 days after the submission of the request. Such denial shall contain a

statement of the reasons for the denial of the request.

(c) Approval of a request for a hearing will be signified by the issuing of a notice as required by G.S. 150B-38(b) and explained in Rule .0005 of this Subchapter.

*Statutory Authority* G.S. 93D-3; 150B-11; 150B-38.

### **.0005 NOTICE OF HEARING**

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) the name, position, address and telephone number of a person at the offices of the Board to contact for further information or discussion;
- (2) the date, time, and place for a pre-hearing conference, if any; and
- (3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) The Board shall give notice to all parties with a notice of hearing either personally or by certified mail or, if those methods are unavailable, in accordance with G.S. 1A-1, Rule 4(j1). In the event that notice is accomplished by certified mail, the delivery date on the return receipt shall be the date of the service of notice.

(c) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license or registration. Upon service of the order, the licensee or registrant to whom the order is directed shall immediately cease fitting and selling hearing aids in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

*Statutory Authority* G.S. 93D-3; 150B-3(c); 150B-11; 150B-38.

### **.0006 WHO SHALL HEAR CONTESTED CASES**

All contested case hearings will be conducted by the full Board or by a panel consisting of at least a majority of the members of the Board. When required by Chapter 150B of the North Carolina Statutes the Board shall apply to the Office of Administrative Hearings for the designation of an administrative law judge to hear the case pursuant to G.S. 150B-40(e).

## **PROPOSED RULES**

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*Statutory Authority G.S. 93D-3; 150B-11; 150B-38; 150B-40.*

### **.0007 PETITION FOR INTERVENTION**

(a) A person desiring to intervene in a contested case must file a written petition with the Board's office. The request must bear the notation: PETITION TO INTERVENE IN THE CASE OF (Name of Case).

(b) The petition must include the following information:

- (1) the name and address of petitioner;
- (2) the business or occupation of petitioner, where relevant;
- (3) a full identification of the hearing in which petitioner is seeking to intervene;
- (4) the statutory or non-statutory grounds for intervention;
- (5) any claim or defense in respect of which intervention is sought; and
- (6) a summary of the arguments or evidence petitioner seeks to present.

(c) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence, or whatever else is deemed necessary that are imposed on the intervenor.

(d) If the Board's decision is to deny intervention, the petitioner shall be notified promptly. Such notice shall be in writing, identifying the reasons for the denial, and shall be issued to the petitioner and all parties.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38.*

### **.0008 TYPES OF INTERVENTION**

(a) Intervention of Right. A petition to intervene as of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the petition is timely.

(b) Permissive Intervention. A petition to intervene permissively as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:

- (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
- (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.

(c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38.*

### **.0009 INFORMAL PROCEDURES**

(a) The Board may direct the parties to conduct an informal pre-hearing conference, or the parties may request such a conference, at a time and place selected by the parties. If the parties do not agree on the time and place of the pre-hearing conference within a reasonable time, the Board may set the time and place of the pre-hearing conference, giving reasonable written notice to all parties in the proceedings. The Board may designate one or more persons from among its members, its attorneys, or its executive secretary to conduct the conference.

(b) At the discretion of the Board, all or part of the pre-hearing conference may be conducted by telephone or other electronic means, if each party has an opportunity to participate while the conference is taking place.

(c) The parties shall conduct the pre-hearing conference to deal with, where applicable:

- (1) exploring settlement possibilities;
- (2) formulating, clarifying, and simplifying the issues to be contested at the hearing;
- (3) preparing stipulations of facts or findings;
- (4) ruling on the identity and number of witnesses;
- (5) determining the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video tape, or other electronic means will be used as a substitute for proceedings in person;
- (6) determining what depositions, discovery orders, or subpoenas will be needed;
- (7) determining the need for consolidation of cases or joint hearing;
- (8) determining the order of presentation of evidence and cross-examination; and
- (9) considering any other matters which may promote the prompt, orderly, and efficient disposition of the case.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38.*

### **.0010 DISQUALIFICATION OF BOARD MEMBERS**

(a) Self-disqualification. If for any reason a board member determines that personal bias or

## **PROPOSED RULES**

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other factors render that member unable to conduct the hearing and perform all duties in an impartial manner, that board member shall voluntarily decline to participate in the hearing or decision.

(b) Request for Disqualification. If for any reason any party in a contested case believes that a board member is personally biased or otherwise unable to conduct the hearing and perform all duties in an impartial manner, the party must make a written request that such board member be disqualified. The request must be accompanied by a sworn, notarized affidavit. The title of such affidavit must bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (Name of Case).

(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the board member.

(d) Timeliness of Affidavit. An affidavit of disqualification will be considered timely if filed ten calendar days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule.

(e) Procedure for Determining Disqualification:

- (1) The Board will appoint a board member to investigate the allegations of the affidavit.
- (2) The investigator will report to the Board the findings of the investigation.
- (3) The Board shall decide whether to disqualify the challenged individual.
- (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the other members of the Board.
- (5) A record of proceedings and the reasons for any decision reached will be maintained as part of the contested case record.
- (6) When a board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
- (7) If disqualification of a board member leaves less than a majority of the Board, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

(8) Where a petition for disqualification is filed less than 10 days before or during the course of a hearing, the hearing shall continue with the challenged board member sitting. Petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member will not participate in further deliberation or decision of the case.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38; 150B-40.*

### **.0011 FAILURE TO APPEAR**

(a) Continuances and adjournments will be granted only upon a showing of good cause and upon the receipt of a timely-made request.

(b) Should a party fail to appear at a hearing or fail to appear following the granting of a continuance or adjournment, the hearing will be conducted in the party's absence.

(c) If a hearing is conducted and a decision is reached in an administrative hearing in the absence of a party, that party may file a written petition with the Board for a reopening of the case.

(d) Petitions for reopening a case will not be granted except when the petitioner can show that the reasons for his failure to appear were justifiable and unavoidable and that fairness requires reopening the case. Such petitions, however, will have no effect on the running of the 30-day period for seeking judicial review, which starts from the day the party is served with the final decision.

*Statutory Authority G.S. 150B-11; 150B-38; 150B-40.*

### **.0012 WITNESSES**

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded or transcribed. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony or other witnesses.

*Statutory Authority G.S. 150B-11; 150B-38; 150B-40.*

## **PROPOSED RULES**

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### **.0013 SUBPOENAS**

(a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be made in writing to the Board, shall identify any document sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas within five days of receipt of the request.

(b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour and location of the hearing in which the witness is commanded to appear; a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on whose application the subpoena was issued; the date of issue; the signature of one of the members of the Board or the Board's executive secretary; and a "return of service". The "return of service" form, as filled out, shows the name and capacity of the person serving the subpoena the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.

(c) Subpoenas shall be served by the sheriff of the county in which the person subpoenaed resides, when the party requesting such subpoena prepays the sheriff's service fee. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out the "return of service" form for each copy and properly return one copy of the subpoena, with the attached "return of service" form completed, to the Board.

(d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.

(e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.

(f) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.

(g) The party who requested the subpoena, in such time as may be granted by the Board, may

file a written response to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.

(h) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(i) Promptly after the close of such hearing, the majority of the board members hearing the contested case will rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of the record.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38; 150B-39.*

### **.0014 FINAL DECISION**

In all cases heard by the Board, the Board will issue its decision within 60 days after its next regularly scheduled meeting following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right to judicial review.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38; 150B-39.*

### **.0015 PROPOSALS FOR DECISIONS**

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(c), a "proposal for decision" shall be rendered within 45 days after the hearing pursuant to the Rules of the Office of Administrative Hearings. The parties may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be filed within 10 days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which exception is taken. The exceptions must be filed with the Board within 10 days of the receipt of the proposal for decision. The written exceptions must bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (Name of Case).

## **PROPOSED RULES**

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(c) Any party may present oral argument to the Board upon request. The request must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.

(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days after the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision will be rendered within 60 days after the next regularly scheduled Board meeting following receipt of the written exceptions.

*Statutory Authority G.S. 93D-3; 150B-11; 150B-38; 150B-40.*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Landscape Contractors' Registration Board intends to amend rule(s) cited as 26 NCAC 28 .0107.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 11:00 A. M. on September 24, 1991 at the First Floor Conference Room, Caswell Building, 3700 National Drive, Raleigh, N. C. 27612.*

**Comment Procedures:** Persons wishing to present oral data, views or arguments on the proposed rule may file a notice with the Board at least 10 days prior to the hearing. Any person may also file a written submission concerning data, comments or arguments at any time until the date of the public hearing. Submission should be mailed to the Board at P. O. Box 25838, Raleigh, N. C. 27611.

### **CHAPTER 28 - REGISTRATION BOARD OF LANDSCAPE CONTRACTORS**

#### **SECTION .0100 - STATUTORY AND ADMINISTRATIVE PROVISIONS**

##### **.0107 FEES**

Fees, as authorized by G.S. 89D-5, shall be as follows:

(6) examination fee, or re-examination fee .....	\$25.00	\$50.00
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*Statutory Authority G.S. 89D-4(c); 89D-5; 89D-8.*

## **TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS**

*Notice is hereby given in accordance with G.S. 150B-12 that the Office of Administrative Hearings, Rules Division intends to adopt, amend, repeal rule(s) cited as 26 NCAC 2A .0102, .0204 - .0205, .0207, .0210 - .0212, .0301, .0303, .0401 - .0405; 26 NCAC 2B .0102, .0201 - .0204, .0301 - .0303, .0401.*

*The proposed effective date of this action is December 1, 1991.*

*The public hearing will be conducted at 12:30 P.M. on September 18, 1991 in Hearing Room #1, Lee House, 422 North Blount Street Raleigh, NC.*

**Comment Procedures:** Comments may be submitted in writing or in person at the public hearing or in writing prior to September 18, 1991, to Elaine R. Steinbeck, APA Coordinator, P. O. Drawer 27447, Raleigh, NC 27611-7447.

## **CHAPTER 2 - RULES DIVISION**

### **SUBCHAPTER 2A - NCAC**

#### **SECTION .0100 - PUBLICATION**

##### **.0102 AVAILABILITY OF THE NCAC**

(a) The Office of Administrative Hearings has available for public inspection all past and current rules filed under the provisions of General Statute Chapter 150B.

(b) The North Carolina Administrative Code is available in two forms as follows:

(1) Copies of individual rules are available at a duplicating cost as established in 26 NCAC 1 .0103.

(2) A compilation which is supplemented monthly. The full compilation or individual volumes may be purchased at prices established in accordance with G.S. ~~150B-63(f)~~, 150B-21.25.

(c) A cost as established in 26 NCAC 1 .0103 is charged for certifying any copies of the NCAC.

## **PROPOSED RULES**

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*Statutory Authority G.S. 150B-21.18; 150B-21.25.*

### **SECTION .0200 - GENERAL FILING REQUIREMENTS**

#### **.0204 CONTINUATION/RECODIFICATION**

(a) A notification for continuation of rules pursuant to G.S. ~~150B-15~~ 150B-21.7 shall be submitted to the Office of Administrative Hearings on a Transfer and Recodification form and accompanied by a Table of Contents setting out the catchline and number of each rule for each Section affected by the transfer.

(b) An agency may request that one or more of its rules be recodified pursuant to G.S. ~~150B-61~~ 150B-21.20. The agency shall submit to the Office of Administrative Hearings a letter containing the rule citations and reasons for the recodification accompanied by a copy of the existing rule(s) and an original of the rule(s) as it should appear after recodification. The recodification is effective upon approval by the Director of the Office of Administrative Hearings Codifier of Rules.

*Statutory Authority G.S. 150B-21.7; 150B-21.19; 150B-21.20.*

#### **.0205 SUBMISSION FOR FILING FORM**

(a) Each adopted or amended rule must be accompanied by a completed typed Submission for Filing form certifying that the rule being filed has been officially adopted or amended.

(b) Repealed rules may be combined on a single Submission for Filing form if the rules are contained in the same Chapter and the repeal effective dates date are is the same.

(c) All Submission for Filing forms shall be signed by the agency head, ~~or~~ a subordinate officer or employee designated by the agency head in writing under G.S. 143B-10(a), or a rule-making coordinator for the agency.

*Statutory Authority G.S. 150B-21.19.*

#### **.0207 RULE SUMMARIES**

For distribution and publication purposes, the director of the office the Codifier of Rules has statutory authority to summarize rules which he judges would be impracticable to distribute or to publish in full. An agency with rules which it believes would be impracticable to distribute or publish may request that the director Codifier of Rules examine such rules. If he determines that the submitted rules are inappropriate for distribution or publication, he may request the agency to draft a summary rule. The full rule or rules

must be filed and the summary published in the North Carolina Administrative Code in accordance with statutory requirements.

*Statutory Authority G.S. 150B-21.18; 150B-21.20.*

#### **.0210 ACCEPTANCE OF RULES FILED**

(a) When an action is accepted for filing by the Office of Administrative Hearings, the agency will be sent a completed copy of the Submission for Filing form which indicates that the action is acceptable for filing.

(b) When the rule has been printed by the Office of Administrative Hearings, the agency head, ~~or~~ a subordinate officer or employee designated by the agency head in writing under G.S. 143B-10(a), or the rule-making coordinator will receive one copy of the document at no charge.

*Statutory Authority G.S. 150B-21.19; 150B-21.24.*

#### **.0211 AGENCY FINAL COPY**

Each department, agency, board and commission shall be responsible for proofing the final computer copy of its rules. as provided in G.S. 150B-61(e).

*Statutory Authority G.S. 150B-21.5.*

#### **.0212 MAILING LIST**

OAH will distribute information of a general nature concerning rule filings and related matters to the APA rule-making coordinator(s) designated in writing by the agency head. It is the responsibility of the agency to keep such designations current with OAH.

*Statutory Authority G.S. 150B-21.*

### **SECTION .0300 - TEMPORARY RULEMAKING**

#### **.0301 FILING TEMPORARY RULES:**

##### **ADOPTIONS: AMENDMENTS: REPEALS**

In order to be acceptable for filing with the Office of Administrative Hearings, each temporary adopted or amended rule shall be accompanied by a completed typed Submission for Filing Temporary Rule Certification form. Temporary repealed rules may be combined on a single Submission for Filing Temporary Rule Certification form if the rules are contained in the same chapter and the repeal effective dates date are is the same. The filing shall include the proper copies required by Rules .0201, .0202, or .0203 of this Subchapter, a Certification of the finding a written statement of its findings of need for the temporary rule, a Submission for Notice form

## PROPOSED RULES

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and filing that complies with the requirements of 26 NCAC 2B for publication in the North Carolina Register.

*Statutory Authority G. S. 150B-21.1; 150B-21.19.*

### .0303 PROCEDURE FOR REVIEW OF TEMPORARY RULES

The Codifier of Rules shall review temporary rules as provided by G. S. 150B-21.1.

*Statutory Authority G. S. 150B-21.1.*

## SECTION .0400 - PHYSICAL FORMAT

### .0401 GENERAL TYPING INSTRUCTIONS

~~Rules submitted to the Office of Administrative Hearings for filing shall be typed, one rule to a page, except two or more consecutive rules within a single section, subchapter, or chapter which are filed at the same time, may be typed on the same sheet and continued from one page to another.~~

(a) The general typing instructions are as follows:

- (1) ~~on~~ an 8-1/2 by 11 inch sheet of paper (no letterhead, carbon copies or onion-skin accepted);
- (2) ~~on~~ one side of the sheet only, with a one inch margin on all sides; and
- (3) ~~with~~ black ink; use standard type only; do not use type of an unusual nature.

(b) The sheet may not be turned around in the typewriter to accommodate wide charts. Charts or figures may be included in the body of a rule only if they can be typed within a 65-space maximum (including all blank spaces).

*Statutory Authority G. S. 150B-21.19.*

### .0402 ORIGINAL COPY OF RULES

All rules filed must be accompanied by an original copy of the rule.

(1) Adoptions and Amendments:

- (a) The original copy shall contain an introductory sentence as specified in Rule .0403 of this Subchapter Section.
- (b) The rule shall be in the format prescribed in Section .0500 of this Subchapter with the following additional requirements:
  - (i) any text to be deleted from ~~the~~ an existing rule shall be indicated by slash through marks; and
  - (ii) any new or added text being added shall be underlined.
- (c) Each rule shall be followed by a history note which contains the Statutory Authority, effective date, and any previous

readoption or amendment dates history references if applicable.

(2) Repeals:

- (a) The original copy shall contain an introductory sentence as specified in Rule .0403 of this Subchapter Section.
- (b) Repealed rules will contain the rule number and rule name, followed by the complete history note noting the repealed effective date. No text is shown on the original copy of a repealed rule.
- (c) Repealed rules shall be combined with a single history note if the rules are consecutive numerically and the effective dates and repealed dates are identical. Authority cites and any other dates are to be combined.

*Statutory Authority G. S. 150B-21.19.*

### .0403 INTRODUCTORY STATEMENT

(a) Each rule submitted to the Office of Administrative Hearings for filing shall have an introductory statement immediately preceding the rule. This introductory statement must contain the full official rule citation and the action being taken.

(b) If notice of the proposed rule was published in the North Carolina Register, the introductory statement shall include the volume, issue and page or pages of the notice publication.

(c) If the adopted or amended rule differs in any way from the proposed rule published in the North Carolina Register, the introductory statement shall include the words "with changes".

~~(d) When part of a rule is to be amended, the agency shall cite the smallest portion of the rule which is changed. This is so the agency does not have to re-type the entire rule when only a portion is being changed. In this case, only the paragraph which is being re-written needs to be typed. Other paragraphs will be renumbered accordingly.~~

~~Note. For example, when a rule is amended by the addition or deletion of a paragraph, the introductory statement should read as follows: "Rule (full citation) has been amended by the (addition) (deletion) of Paragraph (del as follows.)"~~

~~(d) If notice of the proposed rule was not required for publication in the North Carolina Register, the introductory statement must include a citation to law exempting the rule from notice.~~

*Statutory Authority G. S. 150B-21.19.*

## .0404 BODY OF RULES

## **PROPOSED RULES**

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(a) The rule number, rule name and body of the rule ~~or the part that is amended~~, shall follow immediately follow the introductory statement for that rule. Generally, there will be no lines skipped in the body of the rule except in unusual circumstances, such as tables. All paragraphs should be indented two spaces or to the third space from the left margin.

(b) All subsections and lists within the rule must be clearly labeled with the correct number or letter in parentheses as specified in Rules .0506 and .0507 of this Subchapter.

*Statutory Authority G. S. 150B-21.19.*

### **.0405 HISTORY NOTE**

(a) Each rule submitted to the Office of Administrative Hearings for filing shall have a history note containing the following information:

- (1) the authority for that rule;
- (2) the effective date of the rule, (last line if an adoption); ~~and~~
- (3) the effective date of the four most recent amendments to that rule or repealed line, whichever is applicable; and
- (4) any other history references pertaining to the rule.

(b) The history note shall be typed after the text or after any illustrations in the rule skipping one line and typing the words "History Note:" indented two spaces from the left margin or on the third space followed by the words:

- (1) "Statutory Authority" in a rule where the authority is strictly statutory, or "Authority" in a rule where the authority is other than statutory. This would then be followed by the properly cited General Statute or authority.
- (2) On the next line, blocked under the letter "S" in "Statutory", the abbreviation "Eff." would be followed by the original effective date of the rule in full.
- (3) On the next line all amendment dates to the original rule shall be listed following the words "Amended Eff.". The four most recent amendment dates shall be given in chronological order, with the most recent amendment listed first.

All items in the history note are separated by semicolons.

(c) Authorities cited in history notes shall be cited according to the most current edition of the rules of citation contained in "A Uniform System of Citation", a copy of which is available in the Office of Administrative Hearings, except that the General Statutes of North Carolina shall be identified by the designation "G.S." rather than "N.C. Gen. Stat.".

*Statutory Authority G. S. 150B-21.19.*

## **SUBCHAPTER 2B - NORTH CAROLINA REGISTER**

### **SECTION .0100 - PUBLICATION**

#### **.0102 STATEMENTS OF ORGANIZATION (REPEALED)**

*Statutory Authority G.S. 150B-10; 150B-63.*

### **SECTION .0200 - GENERAL FILING REQUIREMENTS**

#### **.0201 PUBLICATION OF PROPOSED RULES**

(a) In order to be acceptable for publication by the Office of Administrative Hearings, ~~all proposed rules all notices required to be published in the North Carolina Register, pursuant to G. S. 150B-21.2,~~ shall be accompanied by a completed typed ~~submission for~~ notice form.

(b) The original and one copy of the ~~rule as proposed text of the rule as proposed~~ shall be submitted ~~in~~ to the Office of Administrative Hearings. ~~The original shall be in proper form as required by Rule .0302 of this Subchapter.~~

*Statutory Authority G. S. 150B-21.17.*

#### **.0202 NOTICE FORMS**

(a) Based upon the type of notice as required in G. S. 150B-21.2, the agency shall complete one of the following appropriate notice forms:

- (1) Notice of Text and Hearing;
- (2) Notice of Text; or
- (3) Notice on Subject Matter.

(b) ~~The A completed submission for notice form certifies that the proposed rule(s) being submitted for publication has (have) been officially proposed for notice by the agency. statement of the subject matter or the text of the rule as proposed has been officially authorized by the agency for publication in the North Carolina Register.~~

(c) ~~More than one rule may be listed on a single form if the rules are in the same chapter promulgated by the same agency and the proposed effective dates and the public hearing dates are the same.~~

*Statutory Authority G. S. 150B-21.17.*

#### **.0203 ACCEPTANCE FOR PUBLICATION**

When a submission is accepted for publication by the Office of Administrative Hearings, the agency will be sent a completed copy of the

## PROPOSED RULES

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~~Submission for~~ notice form which indicates that the submission is acceptable for publication.

*Statutory Authority G. S. 150B-21.17.*

### .0204 REFUSAL OF PUBLICATION

(a) The Office of Administrative Hearings will refuse to accept for publication any ~~proposed rule~~ notice form which ~~does~~ does not meet the requirements of this Subchapter.

(b) If the submission for publication notice is not acceptable, it will be returned to the agency with an indication of the changes needed.

*Statutory Authority G. S. 150B-21.17.*

## SECTION .0300 - PHYSICAL FORMAT

### .0301 GENERAL TYPING INSTRUCTIONS

~~Proposed administrative rules~~ All notices required to be published in the North Carolina Register pursuant to G. S. 150B-21.2 shall be submitted in the form specified in 26 NCAC 2A .0401.

*Statutory Authority G. S. 150B-21.17.*

### .0302 ORIGINAL COPY OF PROPOSED RULES

#### (1) Adoptions:

- (1) All proposed rules shall be accompanied by an original copy of the proposed text.
- (2) The original shall contain an introductory statement in the form specified in 26 NCAC 2A .0403(a).
- (3) Following the introductory statement, the body of the rule shall be in the form specified in 26 NCAC 2A .0404.
- (4) The specific authority shall be cited following the body of each rule.

#### (2) Amendment:

- (1) All proposed amendments shall be accompanied by an original copy of the proposed text.
- (2) The original shall contain an introductory statement in the form specified in 26 NCAC 2A .0403(a).

The original copy of a rule as proposed to be adopted, amended, or repealed by the agency shall meet the following requirements:

- (1) The original shall contain an introductory statement immediately preceding the rule. The statement must contain the full official rule citation and the action being taken.
- (2) Following the introductory statement, the body of the rule shall be in the form specified in 26 NCAC 2A .0404 and as follows:

- (a) any text to be deleted or repealed from the an existing rule shall be indicated by slash through marks; and
- (b) any new or added text being added shall be underlined.
- (3) (1) The specific authority shall be cited following the body of each rule.
- (4) (2) With prior approval from the Office of Administrative Hearings, an agency may cite the minimum portion of the rule which is changed. Portions published shall give adequate notice of the change(s) to the rule.
- (5) Repeals:
  - (1) All proposed repeals shall be accompanied by an original copy which contains an introductory statement in the form specified in 26 NCAC 2A .0402.
  - (2) Following the introductory statement the original shall contain a list of the rule number(s) and rule name(s) of the items to be repealed.
  - (3) The specific authority shall be cited following the rule number and rule name for each repealed rule. The authority may be cited following a listing of repealed rules if the rules contain the same authority.

*Statutory Authority G. S. 150B-21.17.*

### .0303 STATEMENT OF SUBJECT MATTER

In so far as possible, the Statement of Subject Matter should be contained on the Notice on Subject Matter form, but if necessary, the statement may be continued on a separate page, provided that the separate page conforms with the typing instructions of 26 NCAC 2A .0401.

*Statutory Authority G. S. 150B-21.17.*

## SECTION .0400 - ELECTRONIC FILINGS

### .0401 SUBMISSIONS THROUGH ATMS COMPUTER SYSTEM

(a) If an agency is connected to the State Computer Center, submissions for publication in the North Carolina Register may be transferred electronically through the ATMS computer system.

(b) The agency shall submit the ~~Submission for~~ notice form and original copy of the ~~proposed text~~ statement of the subject matter or the rule as proposed as required in this Subchapter. The ~~proposed text~~ statement of the subject matter or the rule as proposed shall be in the computer system in proper format upon submission to the Office of Administrative Hearings.

(c) In using this process, the agency shall submit with the filing an Electronic Filing form.

## ***PROPOSED RULES***

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The Office of Administrative Hearings shall return a copy of the form notifying the contact person of the transmittal date. Upon receipt of the form containing the transmittal date, the agency may delete the document from its storage.

*Statutory Authority G. S. 150B-21.17.*

## **ARRC OBJECTIONS**

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The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).

### **EDUCATION**

#### Elementary and Secondary Education

*16 NCAC 6C .0207 - Prospective Teacher Scholarship Loans* ARRC Objection 6/21/91

### **ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

#### Adult Health

<i>15A NCAC 16A .0804 - Financial Eligibility</i>	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Responded	3/21/91
No Response from Agency	4/18/91
<i>15A NCAC 16A .0806 - Billing the HIV Health Services Program</i>	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Responded	3/21/91
No Response from Agency	4/18/91

#### Wildlife

*15A NCAC 10K .0001 - Course Requirements* ARRC Objection 7/18/91

### **HUMAN RESOURCES**

#### Children's Services

*10 NCAC 41I .0406 - Responsibility for Training of Team Members* ARRC Objection 7/18/91

#### Individual and Family Support

<i>10 NCAC 42B .1201 - Personnel Requirements</i>	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Returned Rule Unchanged	3/21/91
Agency Filed Rule with OAH	8/01/91
<i>10 NCAC 42C .2001 - Qualifications of Administrator</i>	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Returned Rule Unchanged	3/21/91
Agency Filed Rule with OAH	8/01/91
<i>10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge</i>	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Returned Rule Unchanged	3/21/91
Agency Filed Rule with OAH	8/01/91
<i>10 NCAC 42C .2006 - Qualifications of Activities Coordinator</i>	ARRC Objection 1/18/91
No Response from Agency	2/25/91
Agency Returned Rule Unchanged	3/21/91
Agency Filed Rule with OAH	8/01/91
<i>10 NCAC 42C .3301 - Existing Building</i>	ARRC Objection 11/14/90
Agency Returned Rule Unchanged	No Action 12/20/90

## **ARRC OBJECTIONS**

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<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>5/01/91</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>12/20/90</i>
<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>5/01/91</i>

### **Social Services**

<i>10 NCAC 24A .0303 - Sel/County Board Members/Social Svcs Comm</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>7/18/91</i>

### **INSURANCE**

#### **Engineering and Building Codes**

<i>11 NCAC 8 .0815 - Final Board Order</i>	<i>ARRC Objection</i>	<i>7/18/91</i>
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### **LICENSING BOARDS AND COMMISSIONS**

#### **Cosmetic Art Examiners**

<i>21 NCAC 14F .0010 - Sanitary Rules</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>No Response from Agency</i>	<i>No Action</i>	<i>7/18/91</i>
<i>21 NCAC 14G .0017 - Changes in Teaching Staff</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>No Response from Agency</i>	<i>No Action</i>	<i>7/18/91</i>
<i>21 NCAC 14I .0304 - Classroom Work</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>No Response from Agency</i>	<i>No Action</i>	<i>7/18/91</i>

#### **Medical Examiners**

<i>21 NCAC 32B .0309 - Personal Interview</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>3/21/91</i>
<i>Rule Returned to Agency</i>		<i>5/16/91</i>

*This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.*

**10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE**

**10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS**

**10 NCAC 26I .0104 - FORMAL APPEALS**

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

**10 NCAC 42W .0003(c) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES**

**10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST**

The North Carolina Court of Appeals, per Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. 603, 398 S.E.2d 40 (1990)].

**16 NCAC 6D .0105 - USE OF SCIIOOL DAY**

The North Carolina Supreme Court, per Associate Justice Henry E. Frye, held invalid Rule 16 NCAC 6D .0105 as decided in *The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction, Plaintiffs v. Whittle Communications and The Thomasville City Board of Education, Defendant-Counterclaimants and The Davidson County Board of Education, Defendant-Intervenor and Counterclaimant v. The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction; and Howard S. Haworth; Barbara M. Tapscott; Kenneth R. Harris; Teena Smith Little; W.C. Meekins Jr.; Mary B. Morgan; Patricia H. Neal; Cary C. Owen; Donald D. Pollock; Prezell R. Robinson; Norma B. Turnage; State Treasurer Harlan E. Boyles; and Lt. Governor James C. Gardner; in their official capacities as members of The North Carolina State Board of Education, Counterclaim Defendants* [328 N.C. 456, 402 S.E.2d 556 (1991)].

**15A NCAC 7H .0308 - SPECIFIC USE STANDARDS**

The North Carolina Court of Appeals, per Judge Sidney S. Eagles Jr., held that it was error for the Coastal Resources Commission to fail to follow the required notice and comment procedure prior to the adoption of temporary rule 15A NCAC 7H .0308(a)(1)(M), but that the CRC followed proper procedures when it adopted the text of the temporary rule as a permanent rule [15A NCAC 7H .0308(a)(1)(M)]. *Conservation Council of North Carolina v. Haste* [102 N.C. App. 411, 402 S.E.2d 447 (1991)].

## **NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM**

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The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

### **TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
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11	Insurance	Geologists	21
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